THE SUPREME COURT STANDING COMMITTEE

ON RULES OF PRACTICE AND PROCEDURE

Minutes of a meeting of the Rules Committee held in Rooms 132-133 of the Maryland Judicial Center, 187 Harry S. Truman Parkway, Annapolis, Maryland on Friday, May 17, 2024.

Members present:

Hon. Alan M. Wilner, Chair
Hon. Douglas R.M. Nazarian, Vice Chair

Hon. Tiffany Anderson
Hon. Vicki Ballou-Watts
James M. Brault, Esq.
Hon. Pamila J. Brown
Hon. Yvette M. Bryant
Hon. Catherine Chen
Del. Luke Clippinger
Julia Doyle, Esq.
Arthur J. Horne, Jr., Esq.
Brian Kane, Esq.
Dawne D. Lindsey, Clerk
Bruce Marcus, Esq.
Stephen S. McCloskey, Esq.
Judy Rupp, State Court Administrator
Scott D. Shellenberger, Esq.
Gregory K. Wells, Esq.
Hon. Dorothy Wilson
Brian L. Zavin, Esq.

In attendance:

Sandra F. Haines, Esq., Reporter
Colby L. Schmidt, Esq., Deputy Reporter
Heather Cobun, Esq., Assistant Reporter
Meredith Drummond, Esq., Assistant Reporter

Hon. Kendra Ausby, Baltimore City Circuit Court
Bruce Avery, Esq.
Hon. Shannon Avery, Baltimore City Circuit Court
Ron Canter, Esq.
Hon. Audrey Carrión, Baltimore City Circuit Court
Patrice Meredith Clarke, Esq.
Kevin Collins, Esq.
Kevin Cox, Esq.
Robert Enten, Esq.
Debra Gardner, Esq.
David Harak, Esq.

Rebecca Hile
Greg Hilton, Esq.
Ronald H. Jarashow, Esq.
Shaoli Katana, Esq.
Connie Kratovil-Lavelle, Esq.
Hon. Timothy Meredith, Senior Judge, Appellate Court
Hon. John Morrissey, Chief Judge, District Court of Maryland
Kelley O'Connor, Assistant State Court Administrator
Suzanne Pelz, Esq.
Rachel Stewart
George Tolley, Esq.
Emanwel Turnbull, Esq.
Hon. Brett Wilson, Circuit Court for Washington County

The Chair convened the meeting. The Reporter advised that the meeting was being recorded for the purpose of assisting with the preparation of meeting minutes and that speaking will be treated as consent to being recorded. She also informed the Committee that Executive Aide Sarah McAdams will be departing her role on July 30. Her position is posted with a closing date of June 7. The Reporter asked the Committee members to share the posting with any potential candidates.

The Chair said that the minutes from the March 15, 2024 meeting were circulated for review. He called for any amendments or discussion on the minutes. Hearing none, he called for a motion to approve the minutes. A motion to approve the minutes was made, seconded, and approved by majority vote.

Agenda Item 1. Consideration of *Voir Dire* referral from the Supreme Court

The Chair informed the Committee that by letter dated April 11, 2024, the Chief Justice requested that the Committee consider Agenda Item 1 on an expedited basis. The Chair explained that under Maryland law, the purpose of *voir dire* is to elicit information that can be used to challenge a juror for cause. Legislation proposed in the 2024 Maryland General Assembly session would have expanded *voir dire* to permit parties to obtain information that may inform their use of peremptory challenges in addition to challenges for cause. The Chair said that Delegate Luke Clippinger and Senator William C. Smith, Jr., chairs of the House Judiciary and Senate Judicial Proceedings Committees, respectively, wrote to the Chief Justice and expressed the opinion that the concerns regarding limited *voir dire* expressed by proponents of the legislation are more appropriate for consideration by the Rules Committee (see Appendix 1 for the letters from the Chief Justice and legislative members).

The Chair said that Assistant Reporter Drummond prepared a memorandum and attached detailed background materials to facilitate discussion. Interested persons, including those who testified before the General Assembly, have been notified of today's meeting. Several have submitted written comments and may wish to address the Committee (Appendix 2). He noted that there are no amendments before the Committee at this stage, only

a policy discussion. If the Committee decides to recommend a change to the existing policy of limited *voir dire*, he said that amendments will be drafted on an expedited basis for consideration.

The Chair asked Delegate Clippinger if he wished to make any remarks. Delegate Clippinger informed the Committee that the Senate passed legislation during the session to address the scope of *voir dire*. After discussions with Senator Smith, he said that they both opted to send the letter to the Chief Justice requesting a referral to the Rules Committee. He said that he and Sen. Smith believe that it is important to investigate other states that have expanded *voir dire* and consider how the change would work in Maryland. He noted that there is a lot of interest in the legislature in expanding *voir dire*, and lawmakers likely will take the issue up again in 2025, but he wanted to give the Judiciary the chance to act first.

The Chair said that interested persons who wish to speak will be permitted to address the Committee. He said that he is not placing a time limit on comments, but he will consider implementing one if necessary. He asked that individuals who wish to speak not repeat each other and try to be brief, noting that the Committee members have received written comments that had been submitted.

The Chair invited Ronald H. Jarashow to speak. Mr. Jarashow said that he is a former circuit court judge and is speaking as a member of the Maryland Association for Justice ("MAJ"), which supported the bills in the General Assembly this year. He said that opponents to expanded *voir dire* raise concerns about increasing the time and expense required to pick juries. He pointed to a National Center for State Courts ("NCSC") report which is included in the background materials. The study concluded that attorney-led *voir dire* averaged two hours to select a jury compared to one hour for judge-led *voir dire*. Mr. Jarashow added that studies have found that attorney-led *voir dire* gets more candid responses from potential jurors who may be intimidated by questioning led by a judge. He said that if there are members of a panel who do not answer any questions during *voir dire*, the only information that parties have about those individuals is demographic information like age, gender, and race. Stereotypes based on those factors are impermissible and unconstitutional bases for a peremptory challenge. He added that the proposed change to expand *voir dire* maintains the discretion of the trial judge to control the process.

Judge Chen asked Mr. Jarashow about Judge Audrey Carrión's comment, which raised questions about how expanded *voir dire* and the number of peremptory challenges available in Maryland cases

could impact the time it takes to conduct jury selection. She asked if MAJ was aware of anyone advocating for elimination or reduction of peremptory challenges to address the logistical concerns about the size of panels and time to pick a jury. Mr. Jarashow responded that NCSC found that attorney-led *voir dire* adds an average of an hour to the time to pick a jury. He said that the decision to expand *voir dire* involves balancing constitutional rights with an additional hour for jury selection. He pointed out that Judge Carrión's letter addresses the number of peremptory challenges in a range of case types with serious criminal cases having the most challenges permitted by statute. He said that those cases will shoulder the largest burden if *voir dire* is expanded but added that he did not see it as an overwhelming one if it allows the court to seat a fair and impartial jury.

Ms. Doyle asked Mr. Jarashow if he is arguing that there is a constitutional right to peremptory challenges. Mr. Jarashow responded that there is a right to a fair and impartial jury in both the United States and Maryland constitutions. If there are peremptory challenges, *Batson v. Kentucky* (476 U.S. 79 (1986)) prohibits using peremptory challenges to strike jurors on the basis of race or other impermissible grounds. Ms. Doyle agreed and said that she wanted to clarify that Mr. Jarashow was not contending that expanded *voir dire* was a constitutional right.

The Chair said that the next speaker signed up for this item was Judge Kendra Ausby. Judge Ausby said that she was speaking on behalf of the Maryland Circuit Judges Association ("the Association") and expressed her agreement with Judge Carrión's letter. She said that the Association shares the concerns regarding the added time to pick a jury that may result from expanded *voir dire.* She cautioned against solving a problem in a way that creates a bigger problem. She noted that it can take an hour just to get a panel into the courtroom to begin *voir dire* in Baltimore City. She expressed her desire to make sure that the Committee is realistic when evaluating the impact of potentially adding to the time it takes to pick a jury.

Patrice Meredith Clarke, an attorney with MAJ, addressed the Committee. She explained that the constitutional right mentioned by Mr. Jarashow is the right to a fair and impartial jury. A biased juror makes a jury unconstitutional; a juror stricken for an impermissible, biased reason also makes a jury unconstitutional. She expressed her belief that constitutional rights cannot be subservient to concerns about judicial economy. She said that trial judges are capable of managing the *voir dire* process to ensure that juries are fair and the selection process is not unduly burdensome on the court.

Ms. Clarke said that the proposed legislation would have implemented a recommendation made by the Rules Committee in 2014 in the 185th Report. She said that, at the time, the Court did not take any immediate action on the proposal. In 2023, a group of attorneys determined that there was broad support for asking the legislature to expand *voir dire* in the 2024 General Assembly session. She pointed out that 12 other local and specialty bar associations supported the bill, and the only official opposition was from the Maryland State's Attorneys Association. She noted that the Maryland State Bar Association ("MSBA") and the Maryland Judiciary both submitted "information" comments which posed questions about implementation of the bill. Ms. Clarke said that retired U.S. District Judge Paul W. Grimm testified at one of the legislative hearings about the benefits of expanded *voir dire* he observed in the federal courts. He testified that in his experience, expanded *voir dire* does not take significantly more time than limited *voir dire* and uncovers additional biases.

Ms. Clarke stated that the current system of limited *voir dire* relies on jurors to "self-assess" their own biases, but implicit bias is hard to identify, particularly in oneself. She said that, in response to the questions concerning the number of peremptory strikes permitted in Maryland, she is not sure what the answer is, but maintaining limited *voir dire* is not the

solution. Judge Chen asked what MAJ's position would be on eliminating peremptory strikes and expanding *voir dire*. Ms. Clarke said that she is against the complete elimination of peremptory strikes, which has only been done in Arizona. She added that peremptory challenges are still needed for situations where the party argues a strike is for cause and the judge disagrees.

Judge Ballou-Watts asked why the case law that has developed around *voir dire*, which provides guidance on what should and should not be asked to assess potential biases, is not sufficient to address MAJ's concerns. Ms. Clarke responded that the *voir dire* questions still require the juror to self-assess to identify bias. She noted that expanded *voir dire* still requires self-assessment, but would give parties more room to ask additional questions.

Judge Nazarian asked why MAJ seems to support expanded *voir dire* led by attorneys rather than by the court. He pointed out that both she and Mr. Jarashow made reference to attorneys asking the questions rather than the judge. Ms. Clarke acknowledged that the scope of *voir dire* can be expanded with judges as the ones asking the questions. Judge Nazarian noted that current law allows the parties to request that the judge ask any questions that they believe will identify biases in jurors, which would lead to challenges for cause. Ms. Clarke

answered that the jurors must answer honestly, and the judge may disagree that the question goes to cause and decline to ask it. Judge Nazarian reiterated that a question aimed at rooting out implicit bias would seek information to support a for-cause challenge, not a peremptory challenge. Ms. Clarke said that if the question is asked and a potential juror answers in a way that suggests a possible bias, the judge calls the juror to the bench with counsel and asks the potential juror "can you be fair and impartial?" If the individual responds in the affirmative and the judge is satisfied, the inquiry ends, and a party must use a peremptory strike if there are concerns about that juror.

David Harak, an attorney with MAJ, addressed the Committee. He said that retired Judge Marcus Shar could not be present at the meeting but asked that Mr. Harak express that he is sensitive to the concern for judicial economy but supports expanding the scope of *voir dire*. Mr. Harak added that expanded *voir dire* has been a long-held interest of his and encouraged the Committee to read a piece that he wrote for MAJ's quarterly journal, which is attached to MAJ's comment letter. He acknowledged the concerns raised by judges regarding judicial economy but said that biased juries are a greater concern.

Connie Kratovil-Lavelle addressed the Committee on behalf of the MSBA. She said that the MSBA reviewed the proposed legislation during the session and took no position other than

to raise questions about implementation. She said that the MSBA has workgroups working on pattern jury instructions that are available to collaborate with the Committee on any changes to the *voir dire* process.

Judge Carrión, Administrative Judge for Baltimore City Circuit Court, addressed the Committee. She said that she was speaking on behalf of nearly all the administrative judges in the State who signed onto the letter submitted to the Committee opposing expanded *voir dire.* She said that the proponents have argued that federal courts have expanded *voir dire* and have not experienced problems. However, she informed the Committee that the federal courts have better facilities and fewer jury trials than Maryland's circuit courts. She said that there is a real concern about increased backlogs if it takes longer to pick juries. She also commented that expanded *voir dire* could lead to lengthy and invasive questioning that might deter potential jurors from coming to jury duty. She concluded that the current *voir dire* process is sufficient to pick fair and impartial juries.

Judge Brett Wilson, Administrative Judge for Washington County Circuit Court, addressed the Committee. He said that, in his experience as an attorney and as a judge, jurors are open and honest at the bench when answering questions posed by the judge. He commented that attorneys are able to ask follow-up

questions, but he rarely sees those questions lead to useful information. He pointed out that the standard *voir dire* questions gather a significant amount of information to assist parties in selecting potential jurors.

The Chair invited discussion from the Committee. Mr. Wells asked what the goal of the discussion should be. Should the Committee make a policy recommendation and work out the details later? The Chair responded that the principal issue is whether *voir dire* should be expanded beyond its current scope. He noted that there are no specific Rules before the Committee. Mr. Wells asked whether the Committee should only focus on that policy question or address details such as whether *voir dire* should be conducted by attorneys or by the court. He commented that in the 10 years since the Committee recommended expanding *voir dire* in the 185th Report, the arguments in favor have only grown more compelling. He said that with limited *voir dire*, sometimes parties are required to rely on unconscious or even express biases when exercising peremptory challenges. He said that he does not think that anyone is asking for unfettered questioning. Mr. Wells suggested that the Committee could expand the scope of *voir dire* and observe the impact before revisiting the issue of the number of peremptory strikes later.

Mr. Shellenberger said that expanded *voir dire* and attorney-led *voir dire* are different issues that should be

considered separately. He added that he is strongly in favor of judge-led *voir dire* which can partially address the concerns about increasing the time it takes to pick juries. He said that the Maryland State's Attorneys Association was opposed to the legislation expanding *voir dire* and cited the time to select a jury as one of its members' concerns.

Del. Clippinger informed the Committee that he needed to leave but said that one of the reasons that he and Sen. Smith sent the letter to Chief Justice Fader was to encourage this conversation. He said that the Senate bill was eventually amended to create a work group on *voir dire*, but it was ultimately determined that the Rules Committee is already well-positioned to conduct the kind of inquiry that would be done by a work group.

Judge Bryant commented that it is very difficult to get a panel of potential jurors in Baltimore City. She said that there are space concerns and, if *voir dire* must extend into a second day, people get very upset and have problems attending multiple days of jury selection. She asked that the Committee not take the issue of time lightly. She added that she does not know if expanded questioning will yield any additional information.

Mr. Marcus said that when he first joined the Committee 10 years ago, this question was being discussed. He commented that

attorneys have an obligation to find the "best" jurors that they can and, in his experience, judges usually permit attorneys to ask questions to accomplish that goal. Trial lawyers and judges all believe that they can tell what a potential juror thinks based on instincts and experience. He pointed out that everyone has biases, and the court should be looking for people who are open-minded rather than people completely free of bias. He said that the issue is whether more or different questions will get parties the information they need to identify a potential harmful bias, which can inform a for-cause challenge or a peremptory challenge. He told the Committee that he does not view the proposed policy change as an expansion; attorneys can submit questions to the judge and the judge can determine what is off-limits. Mr. Marcus added that he is sensitive to the logistical issues raised by the courts, but logistical concerns cannot be the determining factor. He expressed his belief that many judges already conduct *voir dire* in a way that allows parties to obtain relevant information.

The Chair said that the MSBA produced Model Jury Selection Questions, which are included in the materials. He asked if those questions have been revisited since 2018. Ms. Doyle commented that she recently was summoned for jury duty and the judge used the model MSBA questions for *voir dire*. She said that simply stating that *voir dire* can be used to gather

information for peremptory challenges is too vague and suggested that she likes the idea of having model questions. Judge Brown said that the model questions are a good starting point and suggested that they be revamped. The Chair remarked that he interprets the Chief Justice's letter referring the issue of *voir dire* to the Rules Committee as an admonition against deferring and waiting for more work from the MSBA or any other outside group. He said that the Court wishes for a policy recommendation soon.

Mr. Wells said that the MSBA model questions were drafted years ago and were designed for the current system of limited *voir dire*. He suggested that the questions be modernized now that the idea of implicit bias is more widely discussed and acknowledged. The Rules could also clarify that limited follow-up questioning from attorneys is permitted.

The Chair reiterated that he does not want to postpone action. The Reporter said that in 2014, the Supreme Court did not reject the recommendation in the 185th Report to expand *voir dire;* the Court tabled the matter and sought more information. Ms. Doyle said that the Supreme Court seems open to expanded *voir dire* but would not want to wait years for additional reports and model questions.

Judge Chen suggested that the matter should be referred to a subcommittee for further discussion. Mr. Wells agreed with

the idea of a special subcommittee on the issue. Judge Ballou-Watts concurred, pointing out that the Chief Justice said to expedite the matter but not at the expense of the Committee's usual process. She added that the Committee also should request that the MSBA look specifically at model questions to identify implicit bias. Mr. Zavin said that he supports the idea of a special subcommittee but suggested that the Committee should give that group guidance. He noted that the Committee does not codify or require MSBA model questions; they are a tool for judges.

Judge Nazarian said that the subcommittee should investigate methods to identify jurors who are not qualified due to prejudices. He said that the goal should be to allow the court to better determine which potential jurors hold harmful biases that make them unqualified for a jury. Mr. Wells suggested that the subcommittee's task should be to determine whether to recommend expanding the scope of *voir dire* again and, if so, what that should look like. The Chair said that he believes that the Committee can have a proposal to the Supreme Court that can satisfy the legislature. Judge Nazarian remarked that if the Committee and the Court do not act, the General Assembly will propose expanding *voir dire* by statute again in the next session. Judge Bryant said that she would support a motion to form a special subcommittee to explore solutions to

the issue of biased jurors rather than to expand *voir dire*. Judge Nazarian responded that he would add this charge to the subcommittee's assignment. Judge Bryant reiterated her opposition to expanding *voir dire*.

A motion was made to refer the matter to a special subcommittee on *voir dire* to (1) determine whether to recommend expanding the scope of *voir dire*, (2) consider guidelines for implementation of any expansion, and (3) discuss additional methods of identifying jurors who harbor impermissible biases. The motion was seconded and passed by a majority vote with one member opposed.

Agenda Item 2. Consideration of proposed amendments and new Rules recommended by the Judgments Subcommittee

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Judge Wilson informed the Committee that the Rules in Agenda Item 2 are recommended by the Judgments Subcommittee to address a recent holding by the U.S. District Court for the District of Maryland (*Rouse v. Moore* (Civ. No. JKB-22-00129)). She explained that the plaintiffs are three couples with at least one spouse in active military service. A creditor obtained judgments against the couples in other states, registered them in Maryland pursuant to the Uniform Enforcement of Foreign Judgments Act (codified at Code, Courts Article, §

11-801 *et. seq.*) and the Maryland Rules. Maryland courts gave those foreign judgments full faith and credit, as required by law, and the creditor took steps to enforce the judgments through writs of garnishment and subpoenas for financial information. The judgments ultimately were determined to be invalid, and the couples sued several Maryland officials – including the Supreme Court justices – alleging that the protections of the Servicemembers Civil Relief Act (50 U.S.C. § 3910 *et. seq.*) ("the SCRA") applied to the creditor's collection efforts. The U.S. District Court agreed and held that a party seeking a writ of garnishment or a subpoena must submit to the court an affidavit regarding the military service status of the other party. If the individual is in the military, the court must appoint an attorney.

Judge Wilson informed the Committee that although the facts of the case involved foreign judgments registered in Maryland, the logic of the opinion is not limited to those situations. The Chief Justice asked the Committee to consider amendments to the impacted Rules. The Judgments Subcommittee has proposed a series of amendments and new Rules that contain parallel provisions in Title 2 and Title 3 for the circuit courts and the District Court, respectively. Judge Wilson said that she would explain the Subcommittee's recommendations and then introduce

the Committee to some of the experts who were consulted on the proposals.

Judge Wilson presented proposed amendments to Rule 2-633, Discovery in Aid of Enforcement; Rule 2-641, Writ of Execution – Issuance and Content; Rule 2-645, Garnishment of Property – Generally; Rule 2-646, Garnishment of Wages; Rule 2-647, Enforcement of Judgment Awarding Possession; Rule 3-633, Discovery in Aid of Enforcement; Rule 3-641, Writ of Execution – Issuance and Content; Rule 3-645, Garnishment of Property – Generally; Rule 3-646, Garnishment of Wages; and Rule 3-647, Enforcement of Judgment Awarding Possession, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 2 – CIVIL PROCEDURE – CIRCUIT COURT

CHAPTER 600 – JUDGMENT

AMEND Rule 2-633 by adding a reference to new Rule 2-640 to subsection (b)(1), by adding to subsection (b)(1) a requirement that a request for examination be accompanied by a military service affidavit, and by making stylistic changes, as follows:

Rule 2-633. DISCOVERY IN AID OF ENFORCEMENT

(a) Methods

Except as otherwise provided in Rule 2-634, a judgment creditor may obtain discovery to aid enforcement of a money judgment (1) by use of depositions, interrogatories, and requests for

documents, and (2) by examination before a judge or an examiner as provided in section (b) of this Rule.

Committee note: The discovery permitted by this Rule is in addition to the discovery permitted before the entry of judgment, and the limitations set forth in Rules 2-411(d) and 2-421(a) apply separately to each. Thus, a second deposition of an individual previously deposed before the entry of judgment may be taken after the entry of judgment without leave of court. A second post-judgment deposition of that individual, however, would require leave of court. *Melnick v. New Plan Realty*, 89 Md. App. 435 (1991). Furthermore, leave of court is not required under Rule 2-421 to serve interrogatories on a judgment debtor solely because 30 interrogatories were served upon that party before the entry of judgment.

(b) Examination before a ~~judge~~ Judge or an ~~examiner~~ Examiner

(1) Generally

Subject to section (c) of this Rule and Rule 2-640, on request of a judgment creditor filed no earlier than 30 days after entry of a money judgment, the court where the judgment was entered or recorded shall issue an order requiring the appearance for examination under oath before a judge or examiner of (A) the judgment debtor, or (B) any other person who may have property of the judgment debtor, be indebted for a sum certain to the judgment debtor, or have knowledge of any concealment, fraudulent transfer, or withholding of any assets belonging to the judgment debtor. The request shall include or be accompanied by a military service affidavit in compliance with § 3931 of the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq.*

(2) Order

(A) The order shall specify when, where, and before whom the examination will be held and that failure to appear may result in (i) the issuance of a body attachment directing a law enforcement officer to take the person served into custody and bring that person before the court and (ii) the person served being held in contempt of court.

Cross reference: See Rule 1-361.

(B) The order shall be served upon the judgment debtor or other person in the manner provided by Rule 2-121, but no body attachment shall issue in the event of a non-appearance absent a determination by the court that (i) the person to whom the order was directed was personally served with the order in the manner described in Rule 2-121 (a)(1) or (3), or (ii) that person has been evading service willfully, as shown by a particularized affidavit based on personal knowledge of a person with firsthand knowledge.

(3) Sequestration

The judge or examiner may sequester persons to be examined, with the exception of the judgment debtor.

Cross reference: Code, Courts Article, §§ 6-411 and 9-119.

(c) Subsequent Examinations

After an examination of a person has been held pursuant to section (b) of this Rule, a judgment creditor may obtain additional examinations of the person in accordance with this section. On request of the judgment creditor, if more than one year has elapsed since the most recent examination of the person, the court shall order a subsequent appearance for examination of the person. If less than one year has elapsed since the most recent examination of the person, the court may require a showing of good cause.

Source: This Rule is derived as follows:

Section (a) is derived from former Rule 627.

Section (b) is in part new and in part derived from former Rule 628 b.

Section (c) is new.

Rule 2-633 was accompanied by the following Reporter's note:

In a memorandum opinion issued on March 20, 2024, the U.S. District Court for the District of Maryland ruled in Rouse v. Moore (Civ. No. JKB-22-00129) that collection activities, such as a subpoena to a financial institution or a writ of garnishment, constitute "judgments" for the purposes of the Servicemembers Civil Relief Act (50 U.S.C. § 3910 et. seq.) ("the SCRA"). Chief Justice Fader requested that the Rules Committee consider and propose changes to the Rules potentially impacted by the decision.

Proposed amendments to Rule 2-633 address the decision by requiring a military service affidavit be filed before a court orders post-judgment examination before a judge or examiner. The issuance of the order is subject to new Rule 2-640, which sets forth the procedure when the affidavit indicates that the judgment debtor is or may be in military service. See the Reporter's note to Rule 2-640.

MARYLAND RULES OF PROCEDURE

TITLE 2 – CIVIL PROCEDURE – CIRCUIT COURT

CHAPTER 600 – JUDGMENT

AMEND Rule 2-641 by adding by adding a reference to new Rule 2-640 to section (a), by adding to section (a) a requirement that a request for a writ be accompanied by a military service affidavit, and by making stylistic changes, as follows:

Rule 2-641. WRIT OF EXECUTION – ISSUANCE AND CONTENT

(a) Generally

Upon the written request of a judgment creditor and subject to Rule 2-640, the clerk of a court where the judgment was entered or is recorded shall issue a

writ of execution directing the sheriff to levy upon property of the judgment debtor to satisfy a money judgment. The writ shall contain a notice advising the debtor that federal and state exemptions may be available and that there is a right to move for release of the property from the levy. The request shall include or be accompanied by (1) a military service affidavit in compliance with § 3931 of the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq*. and (2) instructions to the sheriff that shall specify ~~(1)~~(A) the judgment debtor's last known address, ~~(2)~~(B) the judgment and the amount owed under the judgment, ~~(3)~~(C) the property to be levied upon and its location, and ~~(4)~~(D) whether the sheriff is to leave the levied property where found, or to exclude others from access to it or use of it, or to remove it from the premises. The judgment creditor may file additional instructions as necessary and appropriate and deliver a copy to the sheriff. More than one writ may be issued on a judgment, but only one satisfaction of a judgment may be had.

(b) Issuance to Another County

If a judgment creditor requests the clerk of the court where the judgment was entered to issue a writ of execution directed to the sheriff of another county, the clerk shall send to the clerk of the other county the writ, the instructions to the sheriff, and, if not already recorded there, a certified copy of the judgment for recording.

(c) Transmittal to Sheriff; Bond

Upon issuing a writ of execution or receiving one from the clerk of another county, the clerk shall deliver the writ and instructions to the sheriff. The sheriff shall endorse on the writ the exact hour and date of its receipt and shall maintain a record of actions taken pursuant to it. If the instructions direct the sheriff to remove the property from the premises where found or to exclude others from access to or use of the property, the sheriff may require the judgment creditor to file with the sheriff a bond with security approved by the sheriff for the payment of any expenses that may be incurred by the sheriff in complying with the writ.

Cross reference: For execution of a judgment against the property of a corporation, joint stock company, association, limited liability company, limited liability partnership, or limited liability limited partnership for the amount of fines or costs awarded against it in a criminal proceeding, see Code, Criminal Procedure Article, § 4-203.

Source: This Rule is derived as follows:

Section (a) is in part new and in part derived from former Rules G40 b 4, the last sentence of G49 a, and 622 e.

Section (b) is in part new and in part derived from former Rule 622 h 1 and 3.

Section (c) is new.

Rule 2-641 was accompanied by the following Reporter's note:

See the Reporter's note to Rule 2-640.

MARYLAND RULES OF PROCEDURE

TITLE 2 – CIVIL PROCEDURE – CIRCUIT COURT

CHAPTER 600 – JUDGMENT

AMEND Rule 2-645 by adding by adding a reference to new Rule 2-640 to section (b), by adding to section (b) a requirement that a request for a writ be accompanied by a military service affidavit, and by making stylistic changes, as follows:

Rule 2-645. GARNISHMENT OF PROPERTY – GENERALLY

(a) Availability

Subject to the provisions of Rule 2-645.1, this Rule governs garnishment of any property of the judgment debtor, other than wages subject to Rule 2-646 and a partnership interest subject to a charging order, in the hands of a third person for the purpose of satisfying a money judgment. Property includes any debt owed to the judgment debtor, whether immediately payable or unmatured.

(b) Issuance of Writ

The judgment creditor may obtain issuance of a writ of garnishment by filing in the same action in which the judgment was entered a request that contains (1) the caption of the action, (2) the amount owed under the judgment, (3) the name and last known address of each judgment debtor with respect to whom a writ is requested, and (4) the name and address of the garnishee. The request shall include or be accompanied by a military service affidavit in compliance with § 3931 of the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq.* Upon the filing of the request and subject to Rule 2-640, the clerk shall issue a writ of garnishment directed to the garnishee.

(c) Content

The writ of garnishment shall:

(1) contain the information in the request, the name and address of the person requesting the writ, and the date of issue,

(2) direct the garnishee to hold, subject to further proceedings or to termination of the writ, the property of each judgment debtor in the possession of the garnishee at the time of service of the writ and all property of each debtor that may come into the garnishee's possession after service of the writ,

(3) notify the garnishee of the time within which the answer must be filed and that the failure to do so may result in judgment by default against the garnishee,

(4) notify the judgment debtor and garnishee that federal and state exemptions may be available,

(5) notify the judgment debtor of the right to contest the garnishment by filing a motion asserting a defense or objection, and

(6) notify the judgment debtor that, if the garnishee files an answer pursuant to section (e) of this Rule and no further filings concerning the writ of garnishment are made with the court within 120 days following the filing of the answer, the garnishee may file a notice of intent to terminate the writ of garnishment pursuant to subsection (k)(2) of this Rule.

Committee note: A writ of garnishment may direct a garnishee to hold the property of more than one judgment debtor if the name and address of each judgment debtor whose property is sought to be attached is stated in the writ.

(d) Service

The writ shall be served on the garnishee in the manner provided by Chapter 100 of this Title for service of process to obtain personal jurisdiction and may be served in or outside the county. Promptly after service upon the garnishee, the person making service shall mail a copy of the writ to the judgment debtor's last known address. Proof of service and mailing shall be filed as provided in Rule 2-126. Subsequent pleadings and papers shall be served on the creditor, debtor, and garnishee in the manner provided by Rule 1-321.

(e) Answer of Garnishee

The garnishee shall file an answer within the time provided by Rule 2-321. The answer shall admit or deny that the garnishee is indebted to the judgment debtor or has possession of property of the judgment debtor and shall specify the amount and nature of any debt and describe any property. The garnishee may assert any defense that the garnishee may have to the garnishment, as well as any defense that the judgment debtor could assert. After answering, the garnishee may pay any garnished indebtedness into court and may deliver to the sheriff any garnished property, which shall then be treated as if levied upon by the sheriff. A garnishee who has filed an answer admitting indebtedness to the judgment debtor or possession of

property of the judgment debtor is not required to file an amended answer solely because of an increase in the garnishee's indebtedness to the judgment debtor or the garnishee's receipt of additional property of the debtor.

(f) When No Answer Filed

If the garnishee fails to file a timely answer, the judgment creditor may proceed pursuant to Rule 2-613 for a judgment by default against the garnishee.

(g) When Answer Filed

If the garnishee files a timely answer, the matters set forth in the answer shall be treated as established for the purpose of the garnishment proceeding unless the judgment creditor files a reply contesting the answer within 30 days after its service. If a timely reply is not filed, the court may enter judgment upon request of the judgment creditor, the judgment debtor, or the garnishee. If a timely reply is filed to the answer of the garnishee, the matter shall proceed as if it were an original action between the judgment creditor as plaintiff and the garnishee as defendant and shall be governed by the rules applicable to civil actions.

(h) Interrogatories to Garnishee

The judgment creditor may serve interrogatories directed to the garnishee pursuant to Rule 2-421. The interrogatories shall contain a notice to the garnishee that, unless answers are served within 30 days after service of the interrogatories or within the time for filing an answer to the writ, whichever is later, the garnishee may be held in contempt of court. The interrogatories shall also inform the garnishee that the garnishee must file a notice with the court pursuant to Rule 2-401 (d) at the time the answers are served. If the garnishee fails to serve timely answers to interrogatories, the court, upon petition of the judgment creditor and proof of service of the interrogatories, may enter an order in compliance with Rule 15-206 treating the failure to answer as a contempt and may require the garnishee to pay reasonable attorney's fees and costs.

(i) Release of Property; Claim by Third Person

Before entry of judgment, the judgment debtor may seek release of the garnished property in accordance with Rule 2-643, except that a motion under Rule 2-643 (d) shall be filed within 30 days after service of the writ of garnishment on the garnishee. Before entry of judgment, a third person claimant of the garnished property may proceed in accordance with Rule 2-643 (e).

(j) Judgment

The judgment against the garnishee shall be for the amount admitted plus any amount that has come into the hands of the garnishee after service of the writ and before the judgment is entered, but not to exceed the amount owed under the creditor's judgment against the debtor and enforcement costs.

(k) Termination of Writ

(1) Upon Entry of Judgment

Upon entry of a judgment against the garnishee pursuant to section (j) of this Rule, the writ of garnishment and the lien created by the writ shall terminate and the garnishee shall be under no obligation to hold any additional property of the debtor that may come into its possession after the judgment was entered.

(2) By the Garnishee

If the garnishee has filed an answer and no further filing concerning the writ of garnishment is made within 120 days after the filing of the answer, the garnishee may file, at any time more than 120 days after the filing of the answer, a notice of intent to terminate the writ of garnishment. The notice shall (A) contain a statement that a party may object to termination of the writ by filing a response within 30 days after service of the notice and (B) be served on the judgment debtor and the judgment creditor. If no response is filed within 30 days after service of the notice, the garnishee may file a termination of the garnishment, which shall release the garnishee from any further obligation to hold any property of the debtor.

Committee note: The methods of termination of a writ of garnishment provided in section (k) of this Rule are not exclusive. Section (k) does not preclude a garnishee or other party from filing a motion for a court order terminating a writ of garnishment on any other appropriate basis.

(l) Statement of Satisfaction

Upon satisfaction by the garnishee of a judgment entered against it pursuant to section (j) of this Rule, the judgment creditor shall file a statement of satisfaction setting forth the amount paid. If the judgment creditor fails to file the statement of satisfaction, the garnishee may proceed under Rule 2-626.

Source: This Rule is derived as follows:
Section (a) is new but is consistent with former Rules G47 a and G50 a.
Section (b) is new.
Section (c) is new.
Section (d) is in part derived from former Rules F6 c and 104 a (4) and is in part new.
Section (e) is in part new and in part derived from former Rule G52 a and b.
Section (f) is new.
Section (g) is new.
Section (h) is derived from former Rule G56.
Section (i) is new.
Section (j) is new.
Section (k) is new.
Section (l) is new.

Rule 2-645 was accompanied by the following Reporter's note:

See the Reporter's note to Rule 2-640.

AMEND Rule 2-646 by adding by adding a reference to new Rule 2-640 to section (b), by adding to section (b) a requirement that a request for a writ be accompanied by a military service affidavit, and by making stylistic changes, as follows:

Rule 2-646. GARNISHMENT OF WAGES

(a) Applicability

This Rule governs garnishment of wages under Code, Commercial Law Article, §§ 15-601 through 15-606.

(b) Issuance of Writ

The judgment creditor may obtain issuance of a writ of garnishment by filing in the same action in which the judgment was obtained a request that contains (1) the caption of the action, (2) the amount owed under the judgment, (3) the name and last known address of the judgment debtor, and (4) the name and address of the garnishee. The request shall include or be accompanied by a military service affidavit in compliance with § 3931 of the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq.* Upon filing of the request and subject to Rule 2-640, the clerk shall issue a writ of garnishment directed to the garnishee together with a blank answer form provided by the clerk.

(c) Content

The writ of garnishment shall:

(1) contain the information in the request, the name and address of the person requesting the writ, and the date of issue,

(2) notify the garnishee of the time within which the answer must be filed and that failure to do so may result in the garnishee being held in contempt,

(3) notify the judgment debtor and garnishee that federal and state exemptions may be available,

(4) notify the judgment debtor of the right to contest the garnishment of wages by filing a motion asserting a defense or objection.

(d) Service

The writ and answer form shall be served on the garnishee in the manner provided by Chapter 100 of this Title for service of process to obtain personal jurisdiction and may be served in or outside the county. Upon issuance of the writ, a copy of the writ shall be mailed to the debtor's last known address. Subsequent pleadings and papers shall be served on the creditor, debtor, and garnishee in the manner provided by Rule 1-321.

(e) Response of Garnishee and Debtor

The garnishee shall file an answer within the time provided by Rule 2-321. The answer shall state whether the debtor is an employee of the garnishee and, if so, the rate of pay and the existence of prior liens. The garnishee may assert any defense that the garnishee may have to the garnishment, as well as any defense that the debtor could assert. The debtor may file a motion at any time asserting a defense or objection.

(f) When No Answer Filed

If the garnishee fails to file a timely answer, the court on motion of the creditor may order the garnishee to show cause why the garnishee should not be held in contempt and required to pay reasonable attorney's fees and costs.

(g) When Answer Filed

If the answer denies employment, the clerk shall dismiss the proceeding against the garnishee unless the creditor files a request for hearing within 15 days after service of the answer. If the answer asserts any other defense or if the debtor files a motion asserting a defense or objection, a hearing on the matter shall be scheduled promptly.

(h) Interrogatories to Garnishee

Interrogatories may be served on the garnishee by the creditor in accordance with Rule 2-645(h).

(i) Withholding and Remitting of Wages

While the garnishment is in effect, the garnishee shall withhold all garnishable wages payable to the debtor. If the garnishee has asserted a defense or is notified that the debtor has done so, the garnishee shall remit the withheld wages to the court. Otherwise, the garnishee shall remit them to the creditor or the creditor's attorney within 15 days after the close of the debtor's last pay period in each month. The garnishee shall notify the debtor of the amount withheld each pay period and the method used to determine the amount. If the garnishee is served with more than one writ for the same debtor, the writs shall be satisfied in the order in which served.

(j) Duties of the Creditor

(1) Payments received by the creditor shall be credited first against accrued interest on the unpaid balance of the judgment, then against the principal amount of the judgment, and finally against attorney's fees and costs assessed against the debtor.

(2) Within 15 days after the end of each month in which one or more payments are received from any source by the creditor for the account of the debtor, the creditor shall mail to the garnishee and to the debtor a statement disclosing the payments and the manner in which they were credited. The statement shall not be filed in court, but creditor shall retain a copy of each statement until 90 days after the termination of the garnishment proceeding and make it available for inspection upon request by any party or by the court.

(3) If the creditor fails to comply with the provisions of this section, the court upon motion may dismiss the garnishment proceeding and order the creditor to pay reasonable attorney's fees and costs to the party filing the motion.

(k) Termination of Garnishment

A garnishment of wages terminates 90 days after cessation of employment unless the debtor is reemployed by the garnishee during that period.

Source: This Rule is derived as follows:
Section (a) is derived from former Rule F6 a.
Section (b) is new.
Section (c) is in part derived from former Rule F6 b and in part new.
Section (d) is in part derived from former Rule F6 c and in part new.
Section (e) is derived from former Rule F6 d and k.
Section (f) is derived from former Rule F6 f.
Section (g) is in part derived from former Rule F6 e and in part new.
Section (h) is derived from former Rule F6 g.
Section (i) is in part derived from former Rule F6 h and in part new.
Section (j) is derived from former Rule F6 j.
Section (k) is derived from former Rule F6 i.

Rule 2-646 was accompanied by the following Reporter's note:

See the Reporter's note to Rule 2-640.

MARYLAND RULES OF PROCEDURE

TITLE 2 – CIVIL PROCEDURE – CIRCUIT COURT

CHAPTER 600 – JUDGMENT

AMEND Rule 2-647 by adding by adding a reference to new Rule 2-640, by adding a requirement that a request for a writ be accompanied by a military service affidavit, and by making stylistic changes, as follows:

Rule 2-647. ENFORCEMENT OF JUDGMENT AWARDING POSSESSION

Upon the written request of the holder of a judgment awarding possession of property and subject to Rule 2-640, the clerk shall issue a writ directing the sheriff to place that party in possession of the property. The request shall include or be accompanied by (a) a military service affidavit in compliance with § 3931 of the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq.* and (b) instructions to the sheriff specifying ~~(a)~~(1) the judgment, ~~(b)~~(2) the property and its location, and ~~(c)~~(3) the party to whom the judgment awards possession. The clerk shall transmit the writ and the instructions to the sheriff. When a judgment awards possession of property or the payment of its value, in the alternative, the instructions shall also specify the value of the property, and the writ shall direct the sheriff to levy upon real or personal property of the judgment debtor to satisfy the judgment if the specified property cannot be found. When the judgment awards possession of real property located partly in the county where the judgment is entered and partly in an adjoining county, the sheriff may execute the writ as to all of the property.

Cross reference: See Code, Real Property Article, § 7-113(c)(1) for an alternate method to take possession of residential real property when the person claiming a right to possession of the property by the terms of a foreclosure sale or court order does not have a court-ordered writ of possession executed by a sheriff or constable. For authority of a sheriff's department to set conditions for removal of personalty or eviction in inclement weather, see *Thornton Mellon, LLC v. Frederick County Sheriff*, 479 Md. 474 (2022).

Source: This Rule is new.

Rule 2-647 was accompanied by the following Reporter's note:

See the Reporter's note to Rule 2-640.

MARYLAND RULES OF PROCEDURE

TITLE 3 – CIVIL PROCEDURE – DISTRICT COURT

CHAPTER 600 – JUDGMENT

AMEND Rule 3-633 by adding a reference to new Rule 3-640 to subsection (b)(1), by adding to subsection (b)(1) a requirement that a request for examination be accompanied by a military service affidavit, and by making stylistic changes, as follows:

Rule 3-633. DISCOVERY IN AID OF ENFORCEMENT

(a) Methods

Unless a money judgment arises out of a small claim action against an individual and except as otherwise provided in Rule 3-634, a judgment creditor may obtain discovery to aid enforcement of a money judgment (1) by use of interrogatories pursuant to Rule 3-421, and (2) by examination before a judge or an examiner as provided in section (b) of this Rule.

Committee note: The discovery permitted by this Rule is in addition to the discovery permitted before the entry of judgment, and the limitations set forth in Rule 3-421(b) apply separately to each. Thus, leave of court is not required under Rule 3-421 to serve one set of not more than 15 interrogatories on a judgment debtor solely because interrogatories were served upon that party before the entry of judgment.

Cross reference: See Code, Courts Article, § 11-704, prohibiting the District Court from ordering an individual to (1) appear for examination or (2) answer interrogatories in aid of execution of a money judgment arising out of a small claim action.

(b) Examination before a ~~judge~~ Judge or an ~~examiner~~ Examiner

(1) Generally

Subject to section (c) of this Rule and Rule 3-640, on request of a judgment creditor filed no earlier than 30 days after entry of a money judgment, the court where the judgment was entered or recorded shall issue an order requiring the appearance for examination under oath before a judge or person authorized by the Chief Judge of the Court to serve as an examiner of (A) the judgment debtor, or (B) any other person who may have property of the judgment debtor, be indebted for a sum certain to the judgment debtor, or have knowledge of any concealment, fraudulent transfer, or withholding of any assets belonging to the judgment debtor. The request shall include or be accompanied by a military service affidavit in compliance with § 3931 of the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq.*

(2) Order

(A) The order shall specify when, where, and before whom the examination will be held and that failure to appear may result in (i) the issuance of a body attachment directing a law enforcement officer to take the person served into custody and bring that person before the court and (ii) the person served being held in contempt of court.

Cross reference: See Rule 1-361.

(B) The order shall be served upon the judgment debtor or other person in the manner provided by Rule 3-121, but no body attachment shall issue in the event of a non-appearance absent a determination by the court that (i) the person to whom the order was directed was personally served with the order in the manner described in Rule 3-121 (a)(1) or (3), or (ii) that person has been evading service willfully, as shown by a particularized affidavit based on personal knowledge of a person with firsthand knowledge.

(3) Sequestration

The judge or examiner may sequester persons to be examined, with the exception of the judgment debtor.

Cross reference: Code, Courts Article, §§ 6-411 and 9-119.

(c) Subsequent Examinations

After an examination of a person has been held pursuant to section (b) of this Rule, a judgment creditor may obtain additional examinations of the person in accordance with this section. On request of the judgment creditor, if more than one year has elapsed since the most recent examination of the person, the court shall order a subsequent appearance for examination of the person. If less than one year has elapsed since the most recent examination of the person, the court may require a showing of good cause.

Source: This Rule is derived as follows:
Section (a) is derived from former M.D.R. 627.
Section (b) is in part new and in part derived from former M.D.R. 628 b.
Section (c) is new.

Rule 3-633 was accompanied by the following Reporter's note:

See the Reporter's note to Rule 2-633.

MARYLAND RULES OF PROCEDURE

TITLE 3 – CIVIL PROCEDURE – DISTRICT COURT

CHAPTER 600 – JUDGMENT

AMEND Rule 3-641 by adding by adding a reference to new Rule 3-640 to section (a), by adding to section (a) a requirement that a request for a writ be accompanied by a military service affidavit, and by making stylistic changes, as follows:

Rule 3-641. WRIT OF EXECUTION – ISSUANCE AND CONTENT

(a) Generally

A writ of execution directing the sheriff to levy upon property of the judgment debtor to satisfy a money judgment may be issued by the clerk of a court where the judgment was entered or is recorded and, subject to Rule 3-640, shall be issued only upon written request of the judgment creditor. If the levy is to be made upon real property located in a county other than Baltimore City, the clerk shall not issue the writ of execution unless it shall appear from that clerk's records or from a certification filed by the judgment creditor that a Notice of Lien has been recorded pursuant to Rule 3-621 in the circuit court for the county where the levy is to be made. The writ shall contain a notice advising the debtor that federal and state exemptions may be available and that there is a right to move for release of the property from the levy. The request shall include or be accompanied by (1) a military service affidavit in compliance with § 3931 of the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq.* and (2) instructions to the sheriff that shall specify ~~(1)~~(A) the judgment debtor's last known address, ~~(2)~~(B) the judgment and the amount owed under the judgment, ~~(3)~~(C) the property to be levied upon and its location, and ~~(4)~~(D) whether the sheriff is to leave the levied property where found, or to exclude others from access to it or use of it, or to remove it from the premises. The judgment creditor may file additional instructions as necessary and appropriate and deliver a copy to the sheriff. More than one writ may be issued on a judgment, but only one satisfaction of a judgment may be had.

(b) Issuance to Another County

If a judgment creditor requests the clerk of the court where the judgment was entered to issue a writ of execution directed to the sheriff of another county, the clerk shall send to the clerk of the other county the writ, the instructions to the sheriff, and, if not already recorded there, a certified copy of the judgment for recording.

(c) Transmittal to Sheriff; Bond

Upon issuing a writ of execution or receiving one from the clerk of another county, the clerk shall deliver the writ and instructions to the sheriff. The sheriff shall endorse on the writ the exact hour and date of its receipt and shall maintain a record of actions taken pursuant to it. If the instructions direct the sheriff to remove the property from the premises where found or to exclude others from access to or use of the property, the sheriff may require the judgment creditor to file with the sheriff a bond with security approved by the sheriff for the payment of any expenses that may be incurred by the sheriff in complying with the writ.

Cross reference: For execution of a judgment against the property of a corporation, joint stock company, association, limited liability company, limited liability partnership, or limited liability limited partnership for the amount of fines or costs awarded against it in a criminal proceeding, see Code, Criminal Procedure Article, § 4-203.

Source: This Rule is derived as follows:
Section (a) is in part new and in part derived from former M.D.R. G40 b 4, the last sentence of G49 a, and 622 e and i.
Section (b) is in part new and in part derived from former M.D.R. 622 h 1 and 3.
Section (c) is new.

Rule 3-641 was accompanied by the following Reporter's note:

See the Reporter's note to Rule 2-641.

AMEND Rule 3-645 by adding by adding a reference to new Rule 3-640 to section (b), by adding to section (b) a requirement that a request for a writ be accompanied by a military service affidavit, and by making stylistic changes, as follows:

Rule 3-645. GARNISHMENT OF PROPERTY – GENERALLY

(a) Availability

Subject to the provisions of Rule 3-645.1, this Rule governs garnishment of any property of the judgment debtor, other than wages subject to Rule 3-646 and a partnership interest subject to a charging order, in the hands of a third person for the purpose of satisfying a money judgment. Property includes any debt owed to the judgment debtor, whether immediately payable or unmatured.

(b) Issuance of Writ

The judgment creditor may obtain issuance of a writ of garnishment by filing in the same action in which the judgment was entered a request that contains (1) the caption of the action, (2) the amount owed under the judgment, (3) the name and last known address of each judgment debtor with respect to whom a writ is requested, and (4) the name and address of the garnishee. The request shall include or be accompanied by a military service affidavit in compliance with § 3931 of the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq.* Upon the filing of the request and subject to Rule 3-640, the clerk shall issue a writ of garnishment directed to the garnishee.

(c) Content

The writ of garnishment shall:

(1) contain the information in the request, the name and address of the person requesting the writ, and the date of issue,

(2) direct the garnishee to hold, subject to further proceedings or to termination of the writ, the property

of each judgment debtor in the possession of the garnishee at the time of service of the writ and all property of each debtor that may come into the garnishee's possession after service of the writ,

(3) notify the garnishee of the time within which the answer must be filed and that failure to do so may result in judgment by default against the garnishee,

(4) notify the judgment debtor and garnishee that federal and state exemptions may be available,

(5) notify the judgment debtor of the right to contest the garnishment by filing a motion asserting a defense or objection, and

(6) notify the judgment debtor that, if the garnishee files an answer pursuant to section (e) of this Rule and no further filings concerning the writ of garnishment are made with the court within 120 days following the filing of the answer, the garnishee may file a notice of intent to terminate the writ of garnishment pursuant to subsection (k)(2) of this Rule.

Committee note: A writ of garnishment may direct a garnishee to hold the property of more than one judgment debtor if the name and address of each judgment debtor whose property is sought to be attached is stated in the writ.

(d) Service

The writ shall be served on the garnishee in the manner provided by Chapter 100 of this Title for service of process to obtain personal jurisdiction and may be served in or outside the county. Promptly after service upon the garnishee, the person making service shall mail a copy of the writ to the judgment debtor's last known address. Proof of service and mailing shall be filed as provided in Rule 3-126. Subsequent pleadings and papers shall be served on the creditor, debtor, and garnishee in the manner provided by Rule 1-321.

(e) Answer of Garnishee

The garnishee shall file an answer within 30 days after service of the writ. The answer shall admit or deny that the garnishee is indebted to the judgment

debtor or has possession of property of the judgment debtor and shall specify the amount and nature of any debt and describe any property. The garnishee may assert any defense that the garnishee may have to the garnishment, as well as any defense that the judgment debtor could assert. After answering, the garnishee may pay any garnished indebtedness into court and may deliver to the sheriff any garnished property, which shall then be treated as if levied upon by the sheriff. A garnishee who has filed an answer admitting indebtedness to the judgment debtor or possession of property of the judgment debtor is not required to file an amended answer solely because of an increase in the garnishee's indebtedness to the judgment debtor or the garnishee's receipt of additional property of the debtor.

(f) When No Answer Filed

If the garnishee fails to file a timely answer, the judgment creditor may proceed pursuant to Rule 3-509 for a judgment by default against the garnishee.

(g) When Answer Filed

If the garnishee files a timely answer, the matters set forth in the answer shall be treated as established for the purpose of the garnishment proceeding unless the judgment creditor files a reply contesting the answer within 30 days after its service. If a timely reply is not filed, the court may enter judgment upon request of the judgment creditor, the judgment debtor, or the garnishee. If a timely reply is filed to the answer of the garnishee, the matter shall proceed as if it were an original action between the judgment creditor as plaintiff and the garnishee as defendant and shall be governed by the rules applicable to civil actions.

(h) Interrogatories to Garnishee

The judgment creditor may serve interrogatories directed to the garnishee pursuant to Rule 3-421. The interrogatories shall contain a notice to the garnishee that, unless answers are served within 30 days after service of the interrogatories or within the time for filing an answer to the writ, whichever is later, the garnishee may be held in contempt of court. The interrogatories shall also inform the garnishee that the

garnishee must file a notice with the court pursuant to Rule 3-401 (b). If the garnishee fails to serve timely answers to interrogatories, the court, upon petition of the judgment creditor and proof of service of the interrogatories, may enter an order in compliance with Rule 15-206 treating the failure to answer as a contempt and may require the garnishee to pay reasonable attorney's fees and costs.

(i) Release of Property; Claim by Third Person

Before entry of judgment, the judgment debtor may seek release of the garnished property in accordance with Rule 3-643, except that a motion under Rule 3-643 (d) shall be filed within 30 days after service of the writ of garnishment on the garnishee. Before entry of judgment, a third person claimant of the garnished property may proceed in accordance with Rule 3-643 (e).

(j) Judgment

The judgment against the garnishee shall be for the amount admitted plus any amount that has come into the hands of the garnishee after service of the writ and before the judgment is entered, but not to exceed the amount owed under the creditor's judgment against the debtor and enforcement costs.

(k) Termination of Writ

(1) Upon Entry of Judgment

Upon entry of a judgment against the garnishee pursuant to section (j) of this Rule, the writ of garnishment and the lien created by the writ shall terminate and the garnishee shall be under no obligation to hold any additional property of the debtor that may come into its possession after the judgment was entered.

(2) By the Garnishee

If the garnishee has filed an answer and no further filing concerning the writ of garnishment is made within 120 days after the filing of the answer, the garnishee may file, at any time more than 120 days after the filing of the answer, a notice of intent to terminate the writ of garnishment. The notice shall (A)

contain a statement that a party may object to termination of the writ by filing a response within 30 days after service of the notice and (B) be served on the judgment debtor and the judgment creditor. If no response is filed within 30 days after service of the notice, the garnishee may file a termination of the garnishment, which shall release the garnishee from any further obligation to hold any property of the debtor.

Committee note: The methods of termination of a writ of garnishment provided in section (k) of this Rule are not exclusive. Section (k) does not preclude a garnishee or other party from filing a motion for a court order terminating a writ of garnishment on any other appropriate basis.

(l) Statement of Satisfaction

Upon satisfaction by the garnishee of a judgment entered against it pursuant to section (j) of this Rule, the judgment creditor shall file a statement of satisfaction setting forth the amount paid. If the judgment creditor fails to file the statement of satisfaction, the garnishee may proceed under Rule 3-626.

Source: This Rule is derived as follows:
Section (a) is new but is consistent with former M.D.R. G47 a and G50 a.
Section (b) is new.
Section (c) is new.
Section (d) is in part derived from former M.D.R. F6 c and 104 a (iii) and is in part new.
Section (e) is in part new and in part derived from former M.D.R. G52 a and b.
Section (f) is new.
Section (g) is new.
Section (h) is derived from former M.D.R. G56.
Section (i) is new.
Section (j) is new.
Section (k) is new.
Section (l) is new.

Rule 3-645 was accompanied by the following Reporter's note:

See the Reporter's note to Rule 2-640.

MARYLAND RULES OF PROCEDURE

TITLE 3 – CIVIL PROCEDURE – DISTRICT COURT

CHAPTER 600 – JUDGMENT

AMEND Rule 3-646 by adding by adding a reference to new Rule 3-640 to section (b), by adding to section (b) a requirement that a request for a writ be accompanied by a military service affidavit, and by making stylistic changes, as follows:

Rule 3-646. GARNISHMENT OF WAGES

(a) Applicability

This Rule governs garnishment of wages under Code, Commercial Law Article, §§ 15-601 through 15-606.

(b) Issuance of Writ

The judgment creditor may obtain issuance of a writ of garnishment by filing in the same action in which the judgment was obtained a request that contains (1) the caption of the action, (2) the amount owed under the judgment, (3) the name and last known address of the judgment debtor, and (4) the name and address of the garnishee. The request shall include or be accompanied by a military service affidavit in compliance with § 3931 of the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq.* Upon the filing of the request and subject to Rule 3-640, the clerk shall issue a writ of garnishment

directed to the garnishee together with a blank answer form provided by the clerk.

(c) Content

The writ of garnishment shall:

(1) contain the information in the request, the name and address of the person requesting the writ, and the date of issue,

(2) notify the garnishee of the time within which the answer must be filed and that failure to do so may result in the garnishee being held in contempt,

(3) notify the judgment debtor and garnishee that federal and state exemptions may be available,

(4) notify the judgment debtor of the right to contest the garnishment of wages by filing a motion asserting a defense or objection.

(d) Service

The writ and answer form shall be served on the garnishee in the manner provided by Chapter 100 of this Title for service of process to obtain personal jurisdiction and may be served in or outside the county. Upon issuance of the writ, a copy of the writ shall be mailed to the debtor's last known address. Subsequent pleadings and papers shall be served on the creditor, debtor, and garnishee in the manner provided by Rule 1-321.

(e) Response of Garnishee and Debtor

The garnishee shall file an answer within 30 days after service of the writ. The answer shall state whether the debtor is an employee of the garnishee and, if so, the rate of pay and the existence of prior liens. The garnishee may assert any defense that the garnishee may have to the garnishment, as well as any defense that the debtor could assert. The debtor may file a motion at any time asserting a defense or objection.

(f) When No Answer Filed

If the garnishee fails to file a timely answer, the court on motion of the creditor may order the garnishee to show cause why the garnishee should not

be held in contempt and required to pay reasonable attorney's fees and costs.

(g) When Answer Filed

If the answer denies employment, the clerk shall dismiss the proceeding against the garnishee unless the creditor files a request for hearing within 15 days after service of the answer. If the answer asserts any other defense or if the debtor files a motion asserting a defense or objection, a hearing on the matter shall be scheduled promptly.

(h) Interrogatories to Garnishee

Interrogatories may be served on the garnishee by the creditor in accordance with Rule 3-645(h).

(i) Withholding and Remitting of Wages

While the garnishment is in effect, the garnishee shall withhold all garnishable wages payable to the debtor. If the garnishee has asserted a defense or is notified that the debtor has done so, the garnishee shall remit the withheld wages to the court. Otherwise, the garnishee shall remit them to the creditor or the creditor's attorney within 15 days after the close of the debtor's last pay period in each month. The garnishee shall notify the debtor of the amount withheld each pay period and the method used to determine the amount. If the garnishee is served with more than one writ for the same debtor, the writs shall be satisfied in the order in which served.

(j) Duties of the Creditor

(1) Payments received by the creditor shall be credited first against accrued interest on the unpaid balance of the judgment, then against the principal amount of the judgment, and finally against attorney's fees and costs assessed against the debtor.

(2) Within 15 days after the end of each month in which one or more payments are received from any source by the creditor for the account of the debtor, the creditor shall mail to the garnishee and to the debtor a statement disclosing the payments and the manner in which they were credited. The statement shall not be filed in court, but the creditor shall retain

a copy of each statement until 90 days after the termination of the garnishment proceeding and make it available for inspection upon request by any party or by the court.

(3) If the creditor fails to comply with the provisions of this section, the court upon motion may dismiss the garnishment proceeding and order the creditor to pay reasonable attorney's fees and costs to the party filing the motion.

(k) Termination of Garnishment

A garnishment of wages terminates 90 days after cessation of employment unless the debtor is reemployed by the garnishee during that period.

Source: This Rule is derived as follows:
Section (a) is derived from former M.D.R. F6 a.
Section (b) is new.
Section (c) is in part derived from former M.D.R. F6 b and in part new.
Section (d) is in part derived from former M.D.R. F6 c and in part new.
Section (e) is derived from former M.D.R. F6 d and k.
Section (f) is derived from former M.D.R. F6 f.
Section (g) is in part derived from former M.D.R. F6 e and in part new.
Section (h) is derived from former M.D.R. F6 g.
Section (i) is in part derived from former M.D.R. F6 h and in part new.
Section (j) is derived from former M.D.R. F6 j.
Section (k) is derived from former M.D.R. F6 i.

Rule 3-646 was accompanied by the following Reporter's note:

See the Reporter's note to Rule 2-640.

AMEND Rule 3-647 by adding by adding a reference to new Rule 3-640, by adding a requirement that a request for a writ be accompanied by a military service affidavit, and by making stylistic changes, as follows:

Rule 3-647. ENFORCEMENT OF JUDGMENT AWARDING POSSESSION

Upon the written request of the holder of a judgment awarding possession of property and subject to Rule 3-640, the clerk shall issue a writ directing the sheriff to place that party in possession of the property The request shall include or be accompanied by (a) a military service affidavit in compliance with § 3931 of the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq.* and (b) instructions to the sheriff specifying ~~(a)~~(1) the judgment, ~~(b)~~(2) the property and its location, and ~~(c)~~(3) the party to whom the judgment awards possession. The clerk shall transmit the writ and the instructions to the sheriff. When a judgment awards possession of property or the payment of its value, in the alternative, the instructions shall also specify the value of the property, and the writ shall direct the sheriff to levy upon real or personal property of the judgment debtor to satisfy the judgment if the specified property cannot be found. When the judgment awards possession of real property located partly in the county where the judgment is entered and partly in an adjoining county, the sheriff may execute the writ as to all of the property.

Cross reference: See Code, Real Property Article, § 7-113 (c)(1) for an alternate method to take possession of residential real property when the person claiming a right to possession of the property by the terms of a foreclosure sale or court order does not have a court-ordered writ of possession executed by a sheriff or constable.

Source: This Rule is new.

Rule 3-647 was accompanied by the following Reporter's note:

See the Reporter's note to Rule 2-640.

Judge Wilson explained that the proposed amendments would require an affidavit to accompany any request for a post-judgment writ pursuant to Title 2, Chapter 600 or Title 3, Chapter 600 and any order directing a judgment debtor to appear for an examination.

Judge Wilson presented proposed new Rule 2-640, Enforcement Procedures – Judgment Debtor in Military Service, and new Rule 3-640, Enforcement Procedures – Judgment Debtor in Military Service, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 2 – CIVIL PROCEDURE – CIRCUIT COURT

CHAPTER 600 – JUDGMENT

ADD NEW Rule 2-640, as follows:

Rule 2-640. ENFORCEMENT PROCEDURES – JUDGMENT DEBTOR IN MILITARY SERVICE

(a) Applicability

This Rule applies to a request for issuance of:

(1) a writ of execution pursuant to Rule 2-641;

(2) a writ of garnishment pursuant to Rule 2-645, Rule 2-645.1, or 2-646;

(3) a writ enforcing a judgment awarding possession pursuant to Rule 2-647; and

(4) an order directing a judgment debtor to appear for an examination pursuant to Rule 2-633 (b).

(b) If Judgment Debtor is Not in Military Service

If a military service affidavit required to be submitted with a request described by section (a) of this Rule indicates that the judgment debtor is not in military service, the writ or order shall be issued as of course.

(c) If Judgment Debtor is or May be in Military Service

(1) Referral to Judge

If a military service affidavit required to be submitted with a request described by section (a) of this Rule indicates that the judgment debtor is in military service or that the creditor is unable to determine whether the debtor is in military service, the clerk shall refer the request to a judge.

(2) Action by Court

If the court determines that the judgment debtor is in the military service, the court shall appoint an attorney for the debtor and proceed under the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq*. If the court is unable to determine whether the judgment debtor is in military service, the court may enter an order pursuant to 50 U.S.C. § 3931 (b)(3).

(3) Issuance of Writ

For a request for issuance of a writ, after referral of the request to a judge, the clerk may issue the requested writ upon order of court.

Source: This Rule is new.

Rule 2-640 was accompanied by the following Reporter's note:

> In a memorandum opinion issued on March 20, 2024, the U.S. District Court for the District of Maryland ruled in *Rouse v. Moore* (Civ. No. JKB-22-00129) that collection activities, such as a subpoena to a financial institution or a writ of garnishment, constitute "judgments" for the purposes of the Servicemembers Civil Relief Act (50 U.S.C. § 3910 *et. seq.*) ("the SCRA"). Chief Justice Fader requested that the Rules Committee consider and propose changes to the Rules potentially impacted by the decision.
>
> The SCRA requires, in part, that a plaintiff seeking entry of a judgment against a defendant submit to the court an affidavit regarding the defendant's military service. Many mechanisms to collect on a judgment, such as writs of garnishment and execution, generally issue from the clerk's office without review by a judge. Proposed amendments to Rules 2-633, 2-641, 2-645, 2-645.1, 2-646, and 2-647 require a military service affidavit to be filed with a request pursuant to those Rules.
>
> Proposed new Rule 2-640 sets forth a procedure for compliance by the clerk and the court if the creditor indicates that the debtor is or may be in the military. If the affidavit indicates that the debtor is not in military service, the requested writ or order shall issue as usual. If the affidavit indicates that the debtor is in military service or the creditor cannot determine whether the debtor is in military service, the clerk is instructed to refer the request to a judge for compliance with the SCRA.
>
> The same changes – new Rule 3-640 and amendments to Rules 3-633, 3-641, 3-645, 3-646, and 3-647 – are proposed in Title 3.

CHAPTER 600 – JUDGMENT

ADD NEW Rule 3-640, as follows:

Rule 3-640. ENFORCEMENT PROCEDURES – JUDGMENT DEBTOR IN MILITARY SERVICE

(a) Applicability

This Rule applies to a request for issuance of:

(1) a writ of execution pursuant to Rule 3-641;

(2) a writ of garnishment pursuant to Rule 3-645, Rule 3-645.1, or 3-646;

(3) a writ enforcing a judgment awarding possession pursuant to Rule 3-647; and,

(4) an order directing a judgment debtor to appear for an examination pursuant to Rule 3-633 (b).

(b) If Judgment Debtor is Not in Military Service

If a military service affidavit required to be submitted with a request described by section (a) of this Rule indicates that the judgment debtor is not in military service, the writ or order shall be issued as of course.

(c) If Judgment Debtor is or May be in Military Service

(1) Referral to Judge

If a military service affidavit required to be submitted with a request described by section (a) of this Rule indicates that the judgment debtor is in military service or that the creditor is unable to determine whether the debtor is in military service, the clerk shall refer the request to a judge.

(2) Action by Court

If the court determines that the judgment debtor is in the military service, the court shall appoint an attorney for the debtor and proceed under the

Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq*. If the court is unable to determine whether the judgment debtor is in military service, the court may enter an order pursuant to 50 U.S.C. § 3931 (b)(3).

(3) Issuance of Writ

For a request for issuance of a writ, after referral of the request to a judge, the clerk may issue the requested writ upon order of court.

Source: This Rule is new.

Rule 3-640 was accompanied by the following Reporter's note:

See the Reporter's note to Rule 2-640.

Judge Wilson explained that proposed new Rules 2-640 and 3-640 contain the procedure for compliance with the SCRA if an affidavit indicates that the debtor is or may be in military service. The clerk is instructed to submit the request to a judge and the judge must follow the requirements of the law, including appointing an attorney for an individual who is in the military.

Judge Wilson presented new Rule 2-510.2, Subpoenas – Financial Information; new Rule 3-510.2, Subpoenas – Financial Information; and proposed amendments to Rule 2-510, Subpoenas – Court Proceedings and Depositions, and Rule 3-510, Subpoenas, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 2 – CIVIL PROCEDURE – CIRCUIT COURT

CHAPTER 500 – TRIAL

ADD NEW Rule 2-510.2, as follows:

Rule 2-510.2. SUBPOENAS – FINANCIAL INFORMATION

(a) Applicability

This Rule applies to a subpoena compelling production of financial information or information derived from financial records as authorized by Code, Financial Institutions Article, § 1-304.

Committee note: Code, Financial Institutions Article, § 1-304, permits a financial institution to disclose or produce financial records or information derived from financial records in compliance with a subpoena only if the subpoena contains a certification either that a copy has been served on the person whose records are sought or that service is waived by the court for good cause.

(b) Military Service Affidavit

(1) Requirement

A person entitled to issuance of a subpoena shall complete a military service affidavit in compliance with § 3931 of the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq*. as to the individual whose information or records is sought by the subpoena.

(2) If Individual is Not in Military Service

If the individual whose information or records is sought is not in military service, the person entitled to issuance of a subpoena shall:

(A) file the completed military service affidavit in the action; and

(B) request issuance of the subpoena pursuant to Rule 2-510.

(2) If Individual is or May be in Military Service

(A) Request; Referral to Judge

If the individual whose information or records is sought is in military service or the requester cannot determine whether the defendant is in military service, the person entitled to issuance of a subpoena shall file a request for issuance of a subpoena accompanied by the completed military service affidavit. The request shall be referred to a judge.

(B) Action by Court

If the court determines that the individual whose information or records is sought is in the military service, the court shall appoint an attorney for the individual and proceed under the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq*. If the court is unable to determine whether the individual is in military service, the court may enter an order pursuant to 50 U.S.C. § 3931 (b)(3).

(C) Issuance of Subpoena

After referral of the request to a judge, the clerk may issue the requested subpoena upon order of court.

Source: This Rule is new.

Rule 2-510.2 was accompanied by the following Reporter's note:

In a memorandum opinion issued on March 20, 2024, the U.S. District Court for the District of Maryland ruled in *Rouse v. Moore* (Civ. No. JKB-22-00129) that collection activities, such as a subpoena to a financial institution or a writ of garnishment, constitute "judgments" for the purposes of the Servicemembers Civil Relief Act (50 U.S.C. § 3910 et. seq.) ("the SCRA"). Chief Justice Fader requested that the Rules Committee consider and propose changes to the Rules potentially impacted by the decision.

Proposed new Rule 2-510.2 governs subpoenas to financial institutions compelling production of financial information or information derived from financial records pursuant to Code, Financial Institutions Article, § 1-304. The Rule requires a military service affidavit be filed prior to issuance of a subpoena and creates a procedure for review by a judge if the affidavit indicates that the individual whose financial information is being sought is in military service.

Section (a) sets forth the applicability of the proposed Rule. A Committee note states the requirements of the Financial Institutions statute.

Section (b) requires a person who requests a subpoena to a financial institution to complete a military service affidavit. If the individual is not in military service, the affidavit must be filed in the relevant action and the subpoena may then issue in accordance with Rule 2-510. If the individual is or may be in military service, the request for a subpoena must be forwarded to a judge for review and compliance with the SCRA. The subpoena may only be issued by court order once referred to a judge.

The same amendments are recommended to comparable provisions in Title 3.

MARYLAND RULES OF PROCEDURE

TITLE 3 – CIVIL PROCEDURE – DISTRICT COURT

CHAPTER 500 – TRIAL

ADD NEW Rule 3-510.2, as follows:

Rule 3-510.2. SUBPOENAS – FINANCIAL INFORMATION

(a) Applicability

This Rule applies to a subpoena compelling production of financial information or information derived from financial records as authorized by Code, Financial Institutions Article, § 1-304.

Committee note: Code, Financial Institutions Article, § 1-304, permits a financial institution to disclose or produce financial records or information derived from financial records in compliance with a subpoena only if the subpoena contains a certification either that a copy has been served on the person whose records are sought or that service is waived by the court for good cause.

(b) Military Service Affidavit

(1) Requirement

A person entitled to issuance of a subpoena shall complete a military service affidavit in compliance with § 3931 of the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq*. as to the individual whose information or records is sought by the subpoena.

(2) If Individual is Not in Military Service

If the individual whose information or records is sought is not in military service, the person entitled to issuance of a subpoena shall:

(A) file the completed military service affidavit in the action; and

(B) request issuance of the subpoena pursuant to Rule 3-510.

(2) If Individual is or May be in Military Service

(A) Request; Referral to Judge

If the individual whose information or records is sought is in military service or the requester cannot determine whether the defendant is in military service, the person entitled to issuance of a subpoena shall file a request for issuance of a subpoena accompanied by the completed military service affidavit. The request shall be referred to a judge.

(B) Action by Court

If the court determines that the individual whose information or records is sought is in the military service, the court shall appoint an attorney for the individual and proceed under the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq*. If the court is unable to determine whether the individual is in military service, the court may enter an order pursuant to 50 U.S.C. § 3931 (b)(3).

(C) Issuance of Subpoena

After referral of the request to a judge, the clerk may issue the requested subpoena upon order of court.

Source: This Rule is new.

Rule 3-510.2 was accompanied by the following Reporter's note:

Proposed new Rule 3-510.2 governs subpoenas to financial institutions, which are authorized by Code, Financial Institutions Article, § 1-304. See the Reporter's note to Rule 2-510.2.

MARYLAND RULES OF PROCEDURE

TITLE 2 – CIVIL PROCEDURE – CIRCUIT COURT

CHAPTER 500 – TRIAL

AMEND Rule 2-510 by adding a reference to new Rule 2-510.2 to section (b), as follows:

Rule 2-510. SUBPOENAS – COURT PROCEEDINGS AND DEPOSITIONS

(a) Required, Permissive, and Non-permissive Use

(1) A subpoena is required:

(A) to compel the person to whom it is directed to attend, give testimony, and produce designated documents, electronically stored information, or tangible things at a court proceeding, including proceedings before a magistrate, auditor, or examiner; and

(B) to compel a nonparty to attend, give testimony, and produce and permit inspection, copying, testing, or sampling of designated documents, electronically stored information, or tangible things at a deposition.

(2) A subpoena may be used to compel a party over whom the court has acquired jurisdiction to attend, give testimony, and produce and permit inspection, copying, testing, or sampling of designated documents, electronically stored information, or tangible things at a deposition.

(3) Except as otherwise permitted by law, a subpoena may not be used for any other purpose. If the court, on motion of a party or on its own initiative, after affording the alleged violator an opportunity for a hearing, finds that a person has used or attempted to use a subpoena or a copy or reproduction of a subpoena form for a purpose other than one allowed under this Rule, the court may impose an appropriate sanction, including an award of a reasonable attorney's fee and costs, the exclusion of evidence obtained as a result of the violation, and reimbursement of any person inconvenienced for time and expenses incurred.

(b) Issuance

~~A~~ Subject to the requirements of Rule 2-510.2, a subpoena shall be issued by the clerk of the court in which an action is pending in the following manner:

(1) On the request of any person entitled to the issuance of a subpoena, the clerk shall (A) issue a completed subpoena, or (B) provide to the person a blank form of subpoena, which the person shall fill in and return to the clerk to be signed and sealed by the clerk before service.

(2) On the request of a member in good standing of the Maryland Bar entitled to the issuance of a subpoena, the clerk shall issue a subpoena signed and sealed by the clerk, which the attorney shall fill in before service.

(3) An attorney of record in a pending action who is a registered user under Rule 20-101 may obtain from the clerk through MDEC, for use in that action, an electronic version of a blank form of subpoena containing the clerk's signature and the seal of the court, which the attorney may download, print, and fill in before service.

(4) Except as provided in subsections (b)(2) and (b)(3) of this Rule, a person other than the clerk may not copy and fill in any blank form of subpoena for the purpose of serving the subpoena. A violation of this section shall constitute a violation of subsection (a)(3) of this Rule.

Committee note: This Rule does not apply to subpoenas issued under Code, Courts Article, Title 9, Subtitle 4 (Maryland Uniform Interstate Depositions and Discovery Act) requiring attendance at a deposition in this State. For subpoenas issued under that Act in conjunction with a deposition, see Rule 2-510.1. For discovery of documents, electronically stored information, and property from a party to an action pending in this State, other than in conjunction with a deposition, see Rule 2-422. For inspection of property of a nonparty in an action pending in this State and for discovery under the Maryland Uniform Interstate Depositions and Discovery Act that is not in conjunction with a deposition, see Rule 2-422.1.

(c) Form

Except as otherwise permitted by the court for good cause, every subpoena shall be on a uniform form approved by the State Court Administrator. The form shall contain: (1) the caption of the action, (2) the name and address of the person to whom it is directed, (3) the name of the person at whose request it is issued, (4) the date, time, and place where attendance is required, (5) a description of any documents, electronically stored information, or tangible things to be produced and if testing or sampling is to occur, a

description of the proposed testing or sampling procedure, (6) when required by Rule 2-412 (d), a notice to designate the person to testify, (7) the date of issuance, and (8) a statement that the subpoena may be served within 60 days after its issuance and may not be served thereafter. A subpoena may specify the form in which electronically stored information is to be produced.

Committee note: A subpoena may be used to compel attendance at a court proceeding or deposition that will be held more than 60 days after the date of issuance, provided that the subpoena is served within the 60-day period. The failure to serve a subpoena within the 60-day period does not preclude the reissuance of a new subpoena.

(d) Service

A subpoena shall be served by delivering a copy to the person named or to an agent authorized by appointment or by law to receive service for the person named or as permitted by Rule 2-121 (a)(3). Service of a subpoena upon a party represented by an attorney may be made by service upon the attorney under Rule 1-321 (a). A subpoena may be served by a sheriff of any county or by any person who is not a party and who is not less than 18 years of age. Unless impracticable, a party shall make a good faith effort to cause a trial or hearing subpoena to be served at least five days before the trial or hearing. A person may not serve or attempt to serve a subpoena more than 60 days after its issuance. A violation of this provision shall constitute a violation of subsection (a)(3) of this Rule.

Cross reference: See Code, Courts Article, § 6-410, concerning service upon certain persons other than the custodian of public records named in the subpoena if the custodian is not known and cannot be ascertained after a reasonable effort. As to additional requirements for certain subpoenas, see Code, Health--General Article, §§ 4-302 and 4-306(b)(6), 45 C.F.R. 164.512 regarding medical records; Code, Health--General Article, § 4-307 regarding mental health records; and Code, Financial Institutions Article, § 1-304.

(e) Objection to Subpoena for Court Proceedings

On motion of a person served with a subpoena to attend a court proceeding (including a proceeding before a magistrate, auditor, or examiner) or a person named or depicted in an item specified in the subpoena filed promptly and, whenever practicable, at or before the time specified in the subpoena for compliance, the court may enter an order that justice requires to protect the person from annoyance, embarrassment, oppression, or undue burden or cost, including one or more of the following:

(1) that the subpoena be quashed or modified;

(2) that the subpoena be complied with only at some designated time or place other than that stated in the subpoena;

(3) that documents, electronically stored information, or tangible things designated in the subpoena be produced only upon the advancement by the party serving the subpoena of the reasonable costs of producing them; or

(4) that documents, electronically stored information, or tangible things designated in the subpoena be delivered to the court at or before the proceeding or before the time when they are to be offered in evidence, subject to further order of court to permit inspection of them.

A motion filed under this section based on a claim that information is privileged or subject to protection shall be supported by a description of the nature of each item that is sufficient to enable the demanding party to evaluate the claim.

(f) Objection to Subpoena for Deposition

A person served with a subpoena to attend a deposition may seek a protective order pursuant to Rule 2-403. If the subpoena also commands the production of documents, electronically stored information, or tangible things at the deposition, the person served or a person named or depicted in an item specified in the subpoena may seek a protective order pursuant to Rule 2-403 or may file, within ten days after service of the subpoena, an objection to

production of any or all of the designated materials. The objection shall be in writing and shall state the reasons for the objection. If an objection is filed, the party serving the subpoena is not entitled to production of the materials except pursuant to an order of the court from which the subpoena was issued. At any time before or within 15 days after completion of the deposition and upon notice to the deponent, the party serving the subpoena may move for an order to compel the production.

A claim that information is privileged or subject to protection shall be supported by a description of each item that is sufficient to enable the demanding party to evaluate the claim.

(g) Duties Relating to the Production of Documents, Electronically Stored Evidence, and Other Property

(1) Generally

A person responding to a subpoena to produce documents, electronically stored information, or other property at a court proceeding or deposition shall:

(A) produce the documents or information as they are kept in the usual course of business or shall organize and label the documents or information to correspond with the categories in the subpoena; and

(B) produce electronically stored information in the form specified in the subpoena or, if a form is not specified, in the form in which the person ordinarily maintains it or in a form that is reasonably usable.

(2) Electronically Stored Information

A person responding to a subpoena to produce electronically stored information at a court proceeding or deposition need not produce the same electronically stored information in more than one form and may decline to produce the information on the ground that the sources are not reasonably accessible because of undue burden or cost. A person who declines to produce information on this ground shall identify the sources alleged to be not reasonably accessible and state the reasons why production from each identified source would cause undue burden or cost. The statement of reasons shall provide enough detail to

enable the demanding party to evaluate the burdens and costs of complying with the subpoena and the likelihood of finding responsive information in the identified sources. Any motion relating to electronically stored information withheld on the ground that it is not reasonably accessible shall be decided in the manner set forth in Rule 2-402 (b).

(h) Protection of Persons Subject to Subpoenas

A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or cost on a person subject to the subpoena.

Cross reference: For the availability of sanctions for violations of this section, see Rules 1-201 (a) and 1-341.

(i) Records Produced by Custodians

(1) Generally

A custodian of records served with a subpoena to produce records at trial may comply by delivering the records to the clerk of the court that issued the subpoena at or before the time specified for production. The custodian may produce exact copies of the records designated unless the subpoena specifies that the original records be produced. The records shall be delivered in a sealed envelope labeled with the caption of the action, the date specified for production, and the name and address of the person at whose request the subpoena was issued. The records shall be accompanied by a certificate of the custodian that they are the complete records requested for the period designated in the subpoena and that the records are maintained in the regular course of business. The certification shall be prima facie evidence of the authenticity of the records.

Cross reference: Code, Health-General Article, § 4-306(b)(6); Code, Financial Institutions Article, § 1-304.

(2) During Trial

Upon commencement of the trial, the clerk shall release the records only to the courtroom clerk assigned to the trial. The courtroom clerk shall return

the records to the clerk promptly upon completion of trial or at an earlier time if there is no longer a need for them. Upon final disposition of the action the clerk shall return the original records to the custodian but need not return copies.

(3) Presence of Custodian

When the actual presence of the custodian of records is required, the subpoena shall state with specificity the reason for the presence of the custodian.

Cross reference: Code, Courts Article, § 10-104 includes an alternative method of authenticating medical records in certain cases transferred from the District Court upon a demand for a jury trial.

(j) Attachment

A witness served with a subpoena under this Rule is liable to body attachment and fine for failure to obey the subpoena without sufficient excuse. The writ of attachment may be executed by the sheriff or peace officer of any county and shall be returned to the court issuing it. The witness attached shall be taken immediately before the court if then in session. If the court is not in session, the witness shall be taken before a judicial officer of the District Court for a determination of appropriate conditions of release to ensure the witness' appearance at the next session of the court that issued the attachment.

(k) Information Produced that is Subject to a Claim of Privilege or Protection

(1) A party who receives a document, electronically stored information, or other property that the party knows or reasonably should know was inadvertently sent shall promptly notify the sender.

(2) Within a reasonable time after information is produced in response to a subpoena that is subject to a claim of privilege or protection, the person who produced the information shall notify each party who received the information of the claim and the basis for it. A party who wishes to determine the validity of a claim of privilege or protection that is not controlled by a court order or a disclosure agreement entered into

pursuant to Rule 2-402 (e)(5), shall promptly file a motion under seal requesting that the court determine the validity of the claim. A party in possession of information that is the subject of the motion shall appropriately preserve the information pending a ruling. A receiving party may not use or disclose the information until the claim is resolved and shall take reasonable steps to retrieve any information the receiving party disclosed before being notified.

Cross reference: See Rule 19-304.4 (b) of the Maryland Attorneys' Rules of Professional Conduct. For issuing and enforcing legislative subpoenas, see Code, State Government Article, §§ 2-1802 and 2-1803.

Source: This Rule is derived as follows:
Section (a) is new but the first and second sentences are derived in part from the 2006 version of Fed. R. Civ. P. 45 (a)(1)(C); the second sentence also is derived in part from former Rule 407 a.
Section (b) is new.
Section (c) is derived from former Rules 114 a and b, 115 a and 405 a 2 (b), and from the 2006 version of Fed. R. Civ. P. 45 (a)(1)(D).
Section (d) is derived from former Rules 104 a and b and 116 b. Section (e) is derived from former Rule 115 b and the 2006 version of Fed. R. Civ. P. 45 (d)(2)(A).
Section (f) is derived from the 1980 version of Fed. R. Civ. P. 45 (d)(1), and the 2006 version of Fed. R. Civ. P. 45 (d)(2)(A).
Section (g) is new and is derived from the 2006 version of Fed. R. Civ. P. 45 (d)(1).
Section (h) is derived from the 1991 version of Fed. R. Civ. P. 45 (c)(1).
Section (i) is new.

Rule 2-510 was accompanied by the following Reporter's note:

The proposed amendment to Rule 2-510 adds to section (b) a condition that issuance of a subpoena is subject to Rule 2-510.2. That proposed new Rule adds additional requirements for a subpoena to a financial institution compelling production of financial

information or information derived from financial records pursuant to Code, Financial Institutions Article, § 1-304. See the Reporter's note to Rule 2-510.2.

MARYLAND RULES OF PROCEDURE

TITLE 3 – CIVIL PROCEDURE – DISTRICT COURT

CHAPTER 500 – TRIAL

AMEND Rule 3-510 by adding a reference to new Rule 3-510.2 to section (b), as follows:

Rule 3-510. SUBPOENAS

(a) Required, Permissive, and Non Permissive Use

(1) A subpoena is required:

(A) to compel the person to whom it is directed to attend, give testimony, and produce designated documents or other tangible things at a court proceeding, including proceedings before an examiner; and

(B) to compel a nonparty to attend, give testimony, and produce and permit inspection and copying of designated documents or other tangible things at a deposition taken pursuant to Rule 3-401 or 3-431.

(2) A subpoena may be used to compel a party over whom the court has acquired jurisdiction to attend, give testimony, and produce and permit inspection and copying of designated documents or other tangible things at a deposition taken pursuant to Rule 3-401 or 3-431.

(3) A subpoena may not be used for any other purpose. If the court, on motion of a party or on its own initiative, after affording the alleged violator an opportunity for a hearing, finds that a person has used

or attempted to use a subpoena or a copy or reproduction of a subpoena form for a purpose other than one allowed under this Rule, the court may impose an appropriate sanction, including an award of a reasonable attorney's fee and costs, the exclusion of evidence obtained as a result of the violation, and reimbursement of any person inconvenienced for time and expenses incurred.

(b) Issuance.

~~A~~ Subject to the requirements of Rule 3-510.2, a subpoena shall be issued by the clerk of the court in which an action is pending in the following manner:

(1) On the request of any person entitled to the issuance of a subpoena, the clerk shall (A) issue a completed subpoena, or (B) provide to the person a blank form of subpoena, which the person shall fill in and return to the clerk to be signed and sealed by the clerk before service.

(2) On the request of a member in good standing of the Maryland Bar entitled to the issuance of a subpoena, the clerk shall issue a subpoena signed and sealed by the clerk, which the attorney shall fill in before service.

(3) An attorney of record in a pending action who is a registered user under Rule 20-101 may obtain from the clerk through MDEC, for use in that action, an electronic version of a blank form of subpoena containing the clerk's signature and the seal of the court, which the attorney may download, print, and fill in before service.

(4) Except as provided in subsections (b)(2) and (b)(3) of this Rule, a person other than the clerk may not copy and fill in any blank form of subpoena for the purpose of serving the subpoena. A violation of this section shall constitute a violation of subsection (a)(3) of this Rule.

(c) Form

Except as otherwise permitted by the court for good cause, every subpoena shall be on a uniform form approved by the State Court Administrator. The form shall contain: (1) the caption of the action, (2) the

name and address of the person to whom it is directed, (3) the name of the person at whose request it is issued, (4) the date, time, and place where attendance is required, (5) a description of any documents or other tangible things to be produced, (6) the date of issuance, and (7) a statement that the subpoena may be served within 60 days after its issuance and may not be served thereafter.

Committee note: A subpoena may be used to compel attendance at a court proceeding or deposition that will be held more than 60 days after the date of issuance provided that the subpoena is served within the 60-day period. The failure to serve a subpoena within the 60-day period does not preclude the reissuance of a new subpoena.

(d) Service

A subpoena shall be served by delivering a copy to the person named or to an agent authorized by appointment or by law to receive service for the person named or as permitted by Rule 3-121 (a)(3). Service of a subpoena upon a party represented by an attorney may be made by service upon the attorney under Rule 1-321 (a). A subpoena may be served by a sheriff of any county or by any person who is not a party and who is not less than 18 years of age. Unless impracticable, a party shall make a good faith effort to cause a trial or hearing subpoena to be served at least five days before the trial or hearing. A person may not serve or attempt to serve a subpoena more than 60 days after its issuance. A violation of this provision shall constitute a violation of subsection (a)(3) of this Rule.

Cross reference: See Code, Courts Article, § 6-410, concerning service upon certain persons other than the custodian of public records named in the subpoena if the custodian is not known and cannot be ascertained after a reasonable effort. As to additional requirements for certain subpoenas, see Code, Health--General Article, §§ 4-302 and 4-306 (b)(6), 45 C.F.R. 164.512 regarding medical records; Code, Health--General Article, § 4-307 regarding mental health records; and Code, Financial Institutions Article, § 1-304.

(e) Objection to Subpoena for Court Proceedings

On motion of a person served with a subpoena to attend a court proceeding (including a proceeding before an examiner) or a person named or depicted in an item specified in the subpoena filed promptly and, whenever practicable, at or before the time specified in the subpoena for compliance, the court may enter an order that justice requires to protect the person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) that the subpoena be quashed or modified;

(2) that the subpoena be complied with only at some designated time or place other than that stated in the subpoena;

(3) that documents or other tangible things designated in the subpoena be produced only upon the advancement by the party serving the subpoena of the reasonable costs of producing them; or

(4) that documents or other tangible things designated in the subpoena be delivered to the court at or before the proceeding or before the time when they are to be offered in evidence, subject to further order of court to permit inspection of them.

(f) Objection to Subpoena for Deposition

A person served with a subpoena to attend a deposition may seek a protective order pursuant to Rule 2-403. If the subpoena also commands the production of documents or other tangible things at the deposition, the person served or a person named or depicted in an item specified in the subpoena may seek a protective order pursuant to Rule 2-403 or may file, within ten days after service of the subpoena, an objection to production of any or all of the designated materials. The objection shall be in writing and shall state the reasons for the objection. If an objection is filed, the party serving the subpoena is not entitled to production of the materials except pursuant to an order of the court from which the subpoena was issued. At any time before or within 15 days after completion of the deposition and upon notice to the

deponent, the party serving the subpoena may move for an order to compel the production.

(g) Protection of Persons Subject to Subpoenas

A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena.

Cross reference: For the availability of sanctions for violations of this section, see Rules 1-201(a) and 1-341.

(h) Records Produced by Custodians

(1) Generally

A custodian of records served with a subpoena to produce records at trial may comply by delivering the records to the clerk of the court that issued the subpoena at or before the time specified for production. The custodian may produce exact copies of the records designated unless the subpoena specifies that the original records be produced. The records shall be delivered in a sealed envelope labeled with the caption of the action, the date specified for production, and the name and address of the person at whose request the subpoena was issued. The records shall be accompanied by a certificate of the custodian that they are the complete records requested for the period designated in the subpoena and that the records are maintained in the regular course of business. The certification shall be prima facie evidence of the authenticity of the records.

Cross reference: Code, Health-General Article, § 4-306(b)(6); Code, Financial Institutions Article, § 1-304.

(2) During Trial

Unless the court has ordered that the records may be inspected and copied prior to trial, upon commencement of the trial, the clerk shall release the records only to the courtroom clerk assigned to the trial. The courtroom clerk shall return the records to the clerk promptly upon completion of trial or at an earlier time if there is no longer a need for them. Upon final disposition of the action, the clerk shall return

the original records to the custodian but need not return copies.

(3) Presence of Custodian

When the actual presence of the custodian of records is required, the subpoena shall state with specificity the reason for the presence of the custodian.

Cross reference: Code, Courts Article, § 10-104 includes an alternative method of authenticating medical records in certain cases.

(i) Attachment

A witness served with a subpoena under this Rule is liable to body attachment and fine for failure to obey the subpoena without sufficient excuse. The writ of attachment may be executed by the sheriff or peace officer of any county and shall be returned to the court issuing it. The witness attached shall be taken immediately before the court if then in session. If the court is not in session, the witness shall be taken before a judicial officer of the District Court for a determination of appropriate conditions of release to ensure the witness' appearance at the next session of the court that issued the attachment.

Source: This Rule is derived as follows:
Section (a) is new but the second sentence is derived in part from former Rule 407 a.
Section (b) is new.
Section (c) is derived from former M.D.R. 114 a and b and 115 a.
Section (d) is derived from former M.D.R. 104 a and b and 116 b.
Section (e) is derived from former M.D.R. 115 b.
Section (f) is derived from the 1980 version of Fed. R. Civ. P. 45(d)(1).
Section (g) is derived from the 1991 version of Fed. R. Civ. P. 45(c)(1).
Section (h) is new.
Section (i) is derived from former M.D.R. 114 d and 742 e.

Rule 3-510 was accompanied by the following Reporter's note:

> The proposed amendment to Rule 3-510 adds to section (b) a condition that issuance of a subpoena is subject to Rule 3-510.2. That proposed new Rule adds additional requirements for a subpoena to a financial institution compelling production of financial information or information derived from financial records pursuant to Code, Financial Institutions Article, § 1-304. See the Reporter's note to Rule 3-510.2.

Judge Wilson explained that the proposed amendments regarding subpoenas only apply to subpoenas to third parties for confidential financial information. The amendments require a request for such a subpoena to be accompanied by a military service affidavit and, if the affidavit indicates that the individual whose financial information is being sought is or may be in the military, instructs the clerk to send the request to a judge for compliance with the SCRA. Judge Wilson said that this amendment addresses the concerns raised by the *Rouse* case where the creditor was using subpoenas improperly for post-judgment discovery.

Judge Wilson said that in addition to the procedure proposed by the amendments and new Rules, the Subcommittee spent considerable time discussing the business process and realities of appointing attorneys for absent servicemembers. She explained that the Subcommittee heard from current and former

Judge Advocate General Corps ("JAG") attorneys that the process is *ad hoc* and relies heavily on volunteers. JAG provides legal assistance to military families in civil matters, but not full representation. The general duties of an attorney appointed for an absent servicemember are to locate the servicemember, ascertain if the servicemember has a valid defense in the case, report back to the court, and seek a stay or other appropriate remedy allowed by the SCRA. She invited Bruce Avery, a former JAG attorney who now handles civil cases where the SCRA is implicated, to speak.

Mr. Avery informed the Committee that he has been an appointed attorney under the SCRA because judges seek him out due to his background. He said that in his experience, courts do not know how to comply with the law. He added that he would encourage the Committee to consider a Title 1 Rule that would provide guidance on the SCRA for the court and for the appointed counsel.

Chief Judge Morrissey addressed the Committee. He said that SCRA compliance has been of interest to the District Court in recent years because of a backlog of civil cases that arose during and after the pandemic. He explained that affidavit judgment actions require a military service affidavit as part of the complaint, which is usually ruled on quickly. As a result of the backlog, however, judges became concerned that the

affidavits were becoming "stale" with the passage of time. A recent Rule change addressed these concerns by requiring that a fresh affidavit accompany each renewal of summons.

Judge Morrissey said that he surveyed District Court administrative judges to learn how they respond when an affidavit indicates that a defendant is in military service, and he agreed with Judge Wilson's characterization of the process as "*ad hoc*." Generally, the court utilizes the SCRA's stay provisions, then scrambles to find counsel willing to be appointed on a *pro bono* basis.

Judge Morrissey compared the current situation to the aftermath of *DeWolfe v. Richmond* (434 Md. 444 (2013)), when the District Court quickly had to develop a way to provide counsel to indigent defendants at their initial appearance. The three staffing models considered were: *pro bono*, which is unreliable to meet the possible demand and does not allow for consistent training of volunteers; staff attorneys hired by the Court, which involves an inherent conflict of interest because it would require Judiciary employees to argue before the Court; and the contractor model, which was ultimately selected. Judge Morrissey said that the Appointed Attorneys Program, which has been in place for 10 years, is a rotating group of attorneys who are paid the same rate as panel attorneys appointed for indigent criminal defendants. The attorneys are trained for the limited

representation they provide at initial appearance hearings. He suggested that this same model could provide attorneys to servicemembers to comply with the SCRA. He said that regardless of the outcome of the *Rouse* case, which is still ongoing, this model could assist with the existing issues surrounding compliance with the SCRA. He said that the idea could be piloted in one jurisdiction to get an idea of how frequent the appointments are and how much time the average limited representation takes.

Judge Wilson invited Ron Canter, a consultant to the Subcommittee on creditor rights, to speak. Mr. Canter said that he submitted a written comment encouraging the Committee to refrain from recommending amendments to the Supreme Court at this time (Appendix 3). He pointed out that the *Rouse* opinion that prompted the proposed amendments was a federal trial court opinion on a motion to dismiss where the judge denied declaratory and injunctive relief. He said that there is at least one past example of Maryland courts reacting to a U.S. District Court opinion (*Reigh v. Schleigh,* 595 F.Supp. 1534 (D.Md. 1984)) in a way that caused significant upheaval in the Rules and processes for certain collections actions, only for the opinion to be overturned on appeal. He suggested that the Committee and the Court should wait for a final judgment in the case before making significant changes to the Rules.

Mr. Canter explained that no other state requires a military service affidavit for post-judgment collection; the affidavit is required by the SCRA prior to entering a default judgment against a party. He said that the judgment puts the debtor on notice that the creditor may try to collect in the future. He commented that the only scenario where the SCRA may be implicated after a judgment is entered would be a debtor who is not in the military at the time of the judgment but enters the military before collection efforts begin.

Mr. Brault asked if years could go by in between the judgment and a collection. Mr. Canter acknowledged that this could happen. He added that the military service affidavit requires either a certification from the Department of Defense's database, which can only be done using the party's date of birth and Social Security Number, or paying a fee to each branch of the military to search by name. Judge Wilson commented that the SCRA allows an affidavit to state the facts known to the person to support a claim that the defendant is not in the military. Mr. Canter acknowledged that this is an option, but judges may reject these affidavits as insufficient proof.

Judge Wilson next invited D. Robert Enten, who also consulted with the Subcommittee, to address the Committee. Mr. Enten said that the proposed amendments would impact the banking industry as both the entity complying with a garnishment order

and, occasionally, as a creditor seeking to collect. He agreed with Mr. Canter that no other state has the requirements proposed in the amendments and called the facts of the *Rouse* case a "tremendously unusual circumstance." He explained that the creditor involved in the cases against the servicemembers appeared to be committing fraud and did not comply with existing Rules and statutes. He said that the scope of the proposed amendments is a significant change addressing a situation that seems to be unique. He also agreed with Mr. Canter's position that it is too soon to take action in response to the opinion in the *Rouse* case, which is not a final judgment. The Chair commented that the Judiciary could be liable in the future if a similar situation occurs.

The Chair called for further comment on the proposed amendments and new Rules in Agenda Item 2. Judge Bryant said that she had stylistic changes to recommend in Rules 2-510.2 and 3-510.2. She suggested that "person entitled to issuance of a subpoena" used three times in subsections (b)(1) and (b)(2) of both Rules should be changed to "person seeking a subpoena." She explained that, subject to the Rule, the person may not be "entitled" to the subpoena without a court order. She also recommended that the last sentence of subsection (b)(2)(A) read "The clerk shall refer the request to a judge." She moved to

make those amendments in Rules 2-510.2 and 3-510.2. The motion was seconded and approved by consensus.

There being no further motion to amend or reject the proposed amendments and new Rules in Agenda Item 2, they were approved as amended.

Agenda Item 3. Consideration of proposed amendments related to the completion of the MDEC Roll-Out

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Mr. Brault presented Rule 1-101, Applicability; Rule 1-105 Official Record of Maryland Rules and Appellate Decisions; Rule 1-342, Notification of Orders, Rulings, and Court Proceedings; Rule 2-510, Subpoenas—Court Proceedings and Depositions; Rule 2-541, Magistrates; Rule 3-510, Subpoenas; Rule 4-265, Subpoena for Hearing or Trial; Rule 7-103, Method of Securing Appellate Review; Rule 7-206.1 , Record — Judicial Review of Decision of the Workers' Compensation Commission; Rule 8-201, Method of Securing Review — The Appellate Court; Rule 8-606, Mandate; Rule 9-205.3, Custody and Visitation-Related Assessments; Rule 9-208, Referral of Matters to Standing Magistrates; Rule 11-103, Magistrates; Rule 11-107, Service of Papers; Rule 16-402, Operations; Rule 16-406, Notice to the Appellate Court; Rule 16-901, Scope of Chapter; Rule 20-101, Definitions; Rule 20-102, Application of Title; Rule 20-104, User Registration; Rule 20-

106, When Electronic Filing Required; Exceptions; Rule 20-109, Access to Electronic Records in MDEC Actions; Rule 20-201, Requirements for Electronic Filing; Rule 20-20, Notice of Filing Tangible Item; Rule 20-205, Service; Rule 20-301, Content of Official Record; Rule 20-405, Other Submissions; and Rule 20-501, MDEC System Outage, for consideration.

Mr. Brault informed the Committee that the proposed amendments in Agenda Item 3 (Appendix 4) are recommended in light of Baltimore City's launch of electronic filing. This completes the statewide roll-out of MDEC and makes certain terminology in the Rules obsolete. For example, he said, there no longer is a need to refer to "MDEC actions" versus "non-MDEC actions" or an "MDEC county" versus a "non-MDEC county." The proposed amendments update the Rules to do away with this and other obsolete terminology. He said that the amendments are not substantive.

Chief Judge Morrissey informed the Committee that he wished to propose an additional change to Rule 20-102.

MARYLAND RULES OF PROCEDURE

TITLE 20 – ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 – GENERAL PROVISIONS

AMEND Rule 20-102 by deleting each reference to "MDEC County" in this Rule, by deleting "a" and "for

an MDEC" from subsection (a)(1), by adding the words "the" and "that" to subsection (a)(1), and by deleting the Committee note following section (c), as follows:

Rule 20-102. APPLICATION OF TITLE

(a) Trial Courts

(1) New Actions and Submissions

On and after the MDEC start date in a county, this Title applies to (A) new actions filed in ~~a~~ the trial court ~~for an MDEC~~ that county, (B) new submissions in actions then pending in that court, (C) new submissions in actions in that court that were concluded as of the MDEC start date but were reopened on or after that date, (D) new submissions in actions remanded to that court by a higher court or the United States District Court, and (E) new submissions in actions transferred or removed to that court.

(2) Existing Documents; Pending and Reopened Cases

With the approval of the State Court Administrator, (A) the County Administrative Judge of ~~the~~ a circuit court ~~for an MDEC county~~, by order, may direct that all or some of the documents that were filed prior to the MDEC start date in a pending or reopened action in that court be converted to electronic form by the clerk, and (B) the Chief Judge of the District Court, by order, may direct that all or some of the documents that were filed prior to the MDEC start date in a pending or reopened action in the District Court be converted to electronic form by the clerk. Any such order by the County Administrative Judge or the Chief Judge of the District Court shall include provisions to ensure that converted documents comply with the redaction provisions applicable to new submissions.

(b) Appellate Courts

(1) Appellate Proceedings

(A) Generally

Except as provided in subsection (b)(1)(B) of this Rule, this Title applies to all appellate proceedings in the Appellate Court and Supreme Court seeking the review of a judgment or order entered in any action.

(B) Exception

For appeals from an action to which section (a) of this Rule does not apply, the clerk of the lower court shall transmit the record in accordance with Rules 8-412 and 8-413, and, upon completion of the appellate proceeding, the clerk of the appellate court shall transmit the mandate and return the record to the lower court in accordance with Rule 8-606 (d)(1).

(2) Other Proceedings

This Title also applies to (A) a question certified to the Supreme Court pursuant to the Maryland Uniform Certification of Questions of Law Act, Code, Courts Article, §§ 12-601-12-613; and (B) an original action in the Supreme Court allowed by law.

Committee note: After the Supreme Court has received and docketed a certification order pursuant to Rule 8-304 or Rule 8-305, parties who are registered users must file any subsequent papers electronically.

(c) Applicability of Other Rules

Except to the extent of any inconsistency with the Rules in this Title, all of the other applicable Maryland Rules continue to apply. To the extent there is any inconsistency, the Rules in this Title prevail.

~~Committee note: The intent of the 2020 amendments to this Rule is to expand MDEC to appeals and certain other proceedings in the Appellate Court and Supreme Court that emanate from non-MDEC subdivisions. That requires certain clarifications. First, unless they are registered users under Rule 20-104, self-represented litigants and other persons subject to Rule 20-106 (a)(4) may not file electronically. See Rule 20-106. They will continue to file their submissions to the appellate court in paper form, unless otherwise permitted by the Court. Second, unless otherwise permitted by the appellate court, trial courts in non-MDEC subdivisions shall continue to transmit the~~

~~record in accordance with Rules 8-412 and 8-413 and not Rule 20-402.~~

Source: This Rule is new.

Rule 20-102 was accompanied by the following Reporter's note:

In the wake of the MDEC roll-out in Baltimore City, the final MDEC county, there is no longer a need to differentiate in the Rules between MDEC and non-MDEC counties. An amendment is proposed to delete each obsolete reference to "MDEC County" in this Rule.

Subsection (a)(1) is proposed to be amended to remove the reference to "MDEC county" and the word "a." The words "the" and "that" are proposed to be added to this subsection. The effect of these revisions is to shift the focus of subsection (a)(1) from the concept of MDEC Counties to individual courts in counties after the MDEC start date.

The obsolete Committee note following section (c) is also proposed to be deleted.

Judge Morrissey explained that when MDEC was first implemented, there was a concern that clerks would spend a significant amount of time back-scanning older cases to digitize them in the system. Now that clerks have substantial experience with MDEC, he and Ms. Rupp believe there is value in allowing clerks to submit a plan under Rule 20-102 (a)(2) to digitize not just pending or reopened cases but any paper filings from past cases. He asked that "in a pending or reopened action in that court" and "in a pending or reopened action in the District

Court" from subsection (a)(2) be stricken. "Pending and Reopened Cases" should also be stricken from the tagline of subsection (a)(2). A motion to make the proposed amendments was made and seconded. By consensus the Committee approved the amendments to Rule 20-102.

Ms. Rupp also commented that there appears to have been an inadvertent strikethrough in subsection (a)(1). She said that the "for" in "for an MDEC" should not be deleted. A motion to make the correction was made, seconded, and approved by consensus. There being no further motion to amend or reject the amendments to Rule 20-102, it was approved as amended.

Mr. Brault said that the remaining Rules in Agenda Item 3 were subcommittee-approved and do not require a motion to approve. There being no motion to amend or reject the remaining Rules in Agenda Item 3, they were approved as presented.

The Deputy Reporter noted that conforming amendments to Agenda Item 3, which were not reviewed by the Subcommittee, were circulated via email to the Committee prior to the meeting (Appendix 5). He said that those amendments would require an amendment to approve. A motion to approve the conforming amendments to the Rules in Agenda Item 3 was made, seconded, and approved by consensus.

Agenda Item 4. Consideration of proposed amendments to Rule 8-132 (Transfer of Appeal Improperly Taken)

Judge Nazarian presented Rule 8-132, Transfer of Appeal Improperly Taken, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 8 – APPELLATE REVIEW IN THE SUPREME COURT AND THE APPELLATE COURT

CHAPTER 100 – GENERAL PROVISIONS

AMEND Rule 8-132 by adding clarifying language in section (b) and by adding a cross reference following section (b), as follows:

Rule 8-132. TRANSFER OF APPEAL IMPROPERLY TAKEN

(a) Appeal to Improper Court

If the Supreme Court or the Appellate Court determines that an appellant has improperly noted an appeal to it but may be entitled to appeal to another court exercising appellate jurisdiction, the Court shall not dismiss the appeal but shall instead transfer the action to the court apparently having jurisdiction, upon the payment of costs provided in the order transferring the action.

(b) Appeal Improperly Filed in the Appellate Court

If a notice of appeal, application for leave to appeal, or petition for certiorari is improperly filed in the Appellate Court, the Court shall not reject the filing but shall note on the filing the date when it was received and transfer the filing to the proper court. The receiving court shall docket the filing using the

date that the filing was received by the Appellate Court or, if applicable, is deemed filed pursuant to Rule 1-322 (d).

Cross reference: See Rule 1-322 (d) governing filings by self-represented individuals confined in certain facilities.

Cross reference: See Rules 8-201 and 8-204 regarding filing of a notice of appeal or application for leave to appeal to the Appellate Court in the lower court. See Rule 8-303 regarding filing of a petition for writ of certiorari in the Supreme Court.

Source: This Rule is in part derived from former Rule 814 and in part new.

Rule 8-132 was accompanied by the following Reporter's note:

Proposed amendments to Rule 8-132 were requested by the Clerk of the Appellate Court of Maryland to clarify the relationship between the provisions of section (b) of the Rule and the so-called "Prison Mailbox Rule" located in Rule 1-322 (d). Rule 1-322 (d) states that a pleading or paper filed by a self-represented individual confined in a correctional or detention facility without direct access to the mail is "deemed to have been filed" when it was deposited into an outgoing mail receptacle or given to an employee authorized to collect prisoner mail.

Rule 8-132 was amended in 2023 to add section (b), which applies to situations where an appellant files the correct type of appeal but does so with the wrong court (e.g. filing a notice of appeal with the Appellate Court rather than in the circuit court). The new section specifies that when the filing is transferred to the proper court, the receiving court should docket the filing "using the date that the filing was received by the Appellate Court." The Appellate Subcommittee was informed that filings subject to Rule 1-322 (d) are marked with the date of receipt and the "deemed filed" date as required by that Rule. The Appellate Subcommittee recommends clarifying that a filing

transferred pursuant to Rule 8-132 (b) which is subject to Rule 1-322 (d) should be docketed using the "deemed filed" date proscribed by Rule 1-322 (d).

A cross reference to Rule 1-322 (d) is added after the section.

Judge Nazarian informed the Committee that the proposed amendments to Rule 8-132 clarify a change that was made to the Rule in 2023 to allow for the transfer of an appeal noted in the wrong court. He said that the Appellate Court Clerk identified a conflict between the new provision and the so-called "Prison Mailbox Rule" located in Rule 1-322 (d). The proposed amendment clarifies that Rule 1-322 (d) determines when a filing by an incarcerated person is "deemed filed" by the court.

There being no motion to amend or reject the proposed amendments to Rule 8-132, they were approved as presented.

Agenda Item 5. Consideration of proposed amendments to Rule 8-511 (Amicus Curiae)

Judge Nazarian presented Rule 8-511, Amicus Curiae, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 8 – APPELLATE REVIEW IN THE SUPREME COURT AND THE APPELLATE COURT

CHAPTER 500 – RECORD EXTRACT, BRIEFS, AND ARGUMENT

AMEND Rule 8-511 as follows:

Rule 8-511. AMICUS CURIAE

(a) Authorization to File Amicus Curiae Brief

An amicus curiae brief may be filed only:

(1) upon written consent of all parties to the appeal;

(2) by the Attorney General in any appeal in which the State of Maryland may have an interest;

(3) upon request by the Court;

(4) as provided in subsection (e)(1) of this Rule; or

(5) upon the Court's grant of a motion filed under section (b) of this Rule.

(b) Motion and Brief

(1) Content of Motion

A motion requesting permission to file an amicus curiae brief shall:

(A) identify the interest of the movant;

(B) state the reasons why the amicus curiae brief is desirable;

(C) state whether the movant requested of the parties their consent to the filing of the amicus curiae brief and, if not, why not;

(D) state the issues that the movant intends to raise; and

(E) identify every person, other than the movant, its members, or its attorneys, who made a monetary or other contribution to the preparation or submission of the brief, and identify the nature of the contribution.

(2) Attachment of Brief

The proposed amicus curiae brief shall be attached to the motion.

(3) If Motion Granted

If the motion is granted, the brief shall be regarded as having been filed when the motion was filed. Promptly after the order granting the motion is filed, the amicus curiae shall file and serve paper copies of the brief as required by Rule 8-502 (c).

(c) Time for Filing

(1) Generally

Except as required by subsection (e)(3) of this Rule and unless the Court orders otherwise, an amicus curiae brief shall be filed ~~at or before the time specified for the filing of the principal brief of the appellee~~ no later than seven days after the principal brief of the party being supported is filed. An amicus curiae that does not support either party shall file its brief no later than seven days after the appellant's or petitioner's principal brief is filed.

(2) Later Filing

An amicus curiae brief may be filed after the time specified in subsection (c)(1) of this Rule only with leave of court. An order authorizing late filing of an amicus curiae brief shall specify the time within which an opposing party may answer.

(d) Compliance With Rules 8-503 and 8-504

(1) Generally

An amicus curiae brief shall comply with the applicable provisions of Rules 8-503 and 8-504, except as provided in subsection (d)(2) of this Rule.

(2) Exception

An amicus curiae brief filed pursuant to subsection (e)(1) or (f)(3) of this Rule shall comply with the applicable provisions of Rule 8-112. It may, but need not, comply with the provisions of Rules 8-503 and 8-504.

(e) Brief Supporting or Opposing Discretionary Review

(1) Motion Not Required

An amicus curiae brief may be filed in the Supreme Court on the question of whether the Court should issue a writ of certiorari or other extraordinary writ, or in the Appellate Court on the question of whether the Court should grant an application for leave to appeal. A motion requesting permission to file such an amicus brief is not required, provided that the amicus curiae brief is signed by an attorney pursuant to Rule 1-311.

(2) Required Contents

A brief filed pursuant to subsection (e)(1) of this Rule shall state whether, if the writ is issued or application is granted, the amicus curiae intends to seek consent of the parties or move for permission to file an amicus curiae brief on the issues before the Court.

(3) Time for Filing

(A) Unless the Court orders otherwise, an amicus curiae brief on the question of whether the Supreme Court should issue a writ of certiorari or other extraordinary writ shall be filed within seven days after the petition is filed.

(B) Unless the Court orders otherwise, an amicus curiae brief on the question of whether the Appellate Court should grant an application for leave to appeal shall be filed within 15 days after the record is transmitted pursuant to Rule 8-204 (c)(1).

(4) Length

A brief filed pursuant to subsection (e)(1) of this Rule shall not exceed 1,900 words.

(f) Reply Brief; Oral Argument; Brief Supporting or Opposing Motion for Reconsideration

Without permission of the Court, an amicus curiae may not (1) file a reply brief, (2) participate in oral argument, or (3) file a brief in support of, or in opposition to, a motion for reconsideration. Permission may be granted only for extraordinary reasons.

~~(g) Appellee's Reply Brief~~

~~Within ten days after the later of (1) the filing of an amicus curiae brief that is not substantially in support of the position of the appellee or (2) the entry of an order granting a motion under section (b) that permits the filing of a brief not substantially in support of the position of the appellee, the appellee may file a reply brief limited to the issues in the amicus curiae brief that are not substantially in support of the appellee's position and are not fairly covered in the appellant's principal brief. Any such reply brief shall not exceed 3,900 words.~~

Source: This Rule is derived in part from Fed.R.App.P. 29 and Sup.Ct.R. 37 and is in part new.

Judge Nazarian explained that the Chief Justice requested that the Committee review the provisions of Rule 8-511 governing the time for filing amicus briefs. The Appellate Subcommittee determined that the timing provisions of the comparable Federal Rules, which requires an amicus brief to be filed within seven days after the brief of the party being supported, is a logical change to propose in response to the Chief Justice's request.

There being no motion to amend or reject the proposed amendments to Rule 8-511, they were approved as presented.

Agenda Item 6. Consideration of proposed housekeeping amendments from the 198th Report

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The Deputy Reporter presented Rule 19-305.5, Unauthorized Practice of Law, Multi-Jurisdictional Practice of Law (5.5);

Rule 19-504, Pro Bono Attorney; and Rule 19-505, List of Pro Bono and Legal Services Programs, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 300 – MARYLAND ATTORNEYS' RULES OF PROFESSIONAL CONDUCT

AMEND Rule 19-305.5 by replacing an obsolete reference to Rule 19-215 with the correct reference to Rule 19-218 in comment [17], as follows:

Rule 19-305.5. UNAUTHORIZED PRACTICE OF LAW; MULTI-JURISDICTIONAL PRACTICE OF LAW (5.5)

. . .

[17] If an employed attorney establishes an office or other systematic presence in this jurisdiction for the purpose of rendering legal services to the employer, the attorney is governed by Md. Code, Business Occupations and Professions Article, § 1-206 (d). In general, the employed attorney is subject to disciplinary proceedings under the Maryland Rules and must comply with Md. Code, Business Occupations and Professions Article, § 10-215 (and Rule 19-214) for authorization to appear before a tribunal. See also Rule ~~19-215~~ 19-218 (as to legal services attorneys).

. . .

Rule 19-305.5 was accompanied by the following Reporter's note:

The Rules Committee staff proposes an amendment to comment [17] of this Rule to replace the

obsolete reference to Rule 19-215 with the correct reference to Rule 19-218.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 500 – PRO BONO LEGAL SERVICES

AMEND Rule 19-504 by replacing an obsolete reference to Rule 19-215 in sections (a) and (b) with the correct reference to Rule 19-218, as follows:

Rule 19-504. PRO BONO ATTORNEY

(a) Definition

As used in this Rule, "pro bono attorney" means an attorney who is authorized by Rule ~~19-215~~ 19-218 or Rule 19-605 (a)(2) to represent clients, without compensation other than reimbursement of reasonable and necessary expenses, and whose practice is limited to providing such representation. "Pro bono attorney" does not include (1) an active member of the Maryland Bar in good standing or (2) an attorney whose certificate of authorization to practice under Rule ~~19-215~~ 19-218 permits the attorney to receive compensation for the practice of law under that Rule.

Cross reference: For the professional responsibility of an active member of the Maryland Bar to render pro bono publico legal service, see Rule 19-306.1 (6.1) (Pro Bono Publico Service) of the Maryland Attorneys' Rules of Professional Conduct.

(b) Authorization to Practice as a Pro Bono Attorney

To practice as a pro bono attorney, an out-of-state attorney shall comply with Rule ~~19-215~~ 19-218 and a retired/inactive member of the Maryland Bar shall comply with Rule 19-605 (a)(2).

. . .

Rule 19-504 was accompanied by the following Reporter's note:

The Rules Committee staff proposes amendments to sections (a) and (b) of this Rule to replace the obsolete references to Rule 19-215 with Rule 19-218.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 500 – PRO BONO LEGAL SERVICES

AMEND Rule 19-505 by replacing an obsolete reference to Rule 19-215 with the correct reference to Rule 19-218, as follows:

Rule 19-505. LIST OF PRO BONO AND LEGAL SERVICES PROGRAMS

At least once a year, the Maryland Legal Services Corporation shall provide to the State Court Administrator a current list of all grantees and other entities recognized by the Corporation that serve low-income individuals who meet the financial eligibility criteria of the Corporation. The State Court Administrator shall post the current list on the Judiciary website along with information about pro bono opportunities in court-based legal services programs.

Cross reference: See Rules 1-325, 1-325.1, ~~19-215~~ 19-218, and 19-605.

> Source: This Rule is derived from former Rule 16-905 (2016).

Rule 19-505 was accompanied by the following Reporter's note:

> The Rules Committee staff proposes an amendment to the cross reference of this Rule to replace the obsolete reference to Rule 19-215 with the correct reference to Rule 19-218.

The Deputy Reporter explained that former Rule 19-215 was reorganized into Rule 19-218 in the 198th Report. The State Board of Law Examiners notified staff of conforming amendments that were missed at the time, leaving obsolete references to Rule 19-215. The proposed amendments correct the error. He noted that the proposed amendments were not approved by a Subcommittee and will require a motion to approve. A motion was made, seconded, and approved by consensus.

There being no further business before the Committee, the Chair adjourned the meeting.