

STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
NOTICE OF PROPOSED RULES CHANGES

The Rules Committee has submitted its Two Hundred and Twelfth Report to the Court of Appeals, recommending revision, on an emergency basis, of the effective date of previously adopted amendments to Rules 1-102 and 4-217 and the rescission of Rule 16-805, all of which currently are scheduled to take effect on January 1, 2023, and adoption, on an emergency basis, of proposed new Rule 1-101.1 and amendments to Rule 1-202 (n) and (aa).

The Committee's Two Hundred and Twelfth Report containing the proposed Rules changes is set forth below.

Interested persons are asked to consider the Committee's Report and proposed Rules changes and to forward on or before December 12, 2022 any written comments they may wish to make to rules@mdcourts.gov or:

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Judiciary A-POD
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Gregory Hilton
Clerk
Court of Appeals

THE COURT OF APPEALS OF MARYLAND

STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

Hon. ALAN M. WILNER, Chair
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December 7, 2022

The Honorable Matthew J. Fader,
Chief Judge
The Honorable Shirley M. Watts
The Honorable Michele D. Hotten
The Honorable Brynja M. Booth
The Honorable Jonathan Biran
The Honorable Steven B. Gould
The Honorable Angela M. Eaves,
Judges

The Court of Appeals of Maryland
Robert C. Murphy Courts of Appeal Building
Annapolis, Maryland 21401

Your Honors:

The Rules Committee submits this, its Two Hundred and Twelfth Report and recommends that the Court adopt, on an emergency basis: (1) a new effective date of July 1, 2023, of amendments to Rules 1-102 and 4-217 and the rescission of Rule 16-805 that were previously adopted by the Court and that are currently scheduled to take effect on January 1, 2023, and (2) proposed new Rule 1-101.1 and amendments to Rule 1-202 (n) and (aa).

Amendments to Rules 1-102 and 4-217 and the repeal of Rule 16-805 were submitted to the Court in the Committee's 211th Report. They deleted from the Maryland Rules the authority of the Circuit Courts to appoint bail bond commissioners and to license and regulate bail bondsmen. That authority has been exercised by the Seventh Circuit through Local Rules 714 and 714A since 1971. The Seventh Circuit is the only circuit that currently has Local Rules of that kind.

In March 2022, the Seventh Circuit entered an Administrative Order that rescinded those Local Rules in two phases. Phase 1, which was effective July 1, 2022, rescinded the collection of a one percent license fee for bail bonds and the separate licensure

of bail bondsmen writing on insurance in the Seventh Circuit. Phase 2 rescinded all other Local Rules relating to bail bondsmen effective July 1, 2023. A copy of that Administrative Order is attached as an Exhibit.

Because no other jurisdiction has such Local Rules or expressed an interest in adopting them, there was no further need for the Maryland Rules to confer that authority, and the Committee was asked to propose their rescission, which it voted to do at its April 22, 2022 meeting. No one at that meeting, or during the ensuing comment period, suggested a delayed effective date for that rescission. At the conclusion of its hearing on the 211th Report, the Court approved the Committee's proposed deletions and, along with the amendments to the other Rules in the 211th Report and, without any objection, made them effective January 1, 2023, which was a convenient date for the other Rules in that Report.

The Committee has since been informed that a January 1, 2023 effective date would conflict with and impede the implementation of Phase 2 of the Seventh Circuit Administrative Order. At the request of the State Court Administrator, the Committee therefore recommends that the Court amend its September 30, 2022 Rules Order that adopted the proposed changes to make the effective date of the amendments to Rules 1-202 and 4-217 and the rescission of Rule 16-805 July 1, 2023, which would put the Rules Order in harmony with the Administrative Order.

New Rule 1-101.1 and amendments to Rule 1-202 (n) and (aa) implement the Constitutional Amendments that, effective as of December 14, 2022, changed the names of the Court of Appeals and Court of Special Appeals to the Supreme Court of Maryland and the Appellate Court of Maryland, respectively, and the title of the judges serving on the Supreme Court of Maryland to Justices of that Court.

The Committee has identified over 200 individual Rules requiring amendment to substitute the new names and titles throughout the Maryland Rules. Some Rules will require only one amendment; others will require multiple amendments. The Committee is well along in preparing those amendments which, in the normal course, should be ready for presentation to the Court in January. In the meanwhile, given that the name changes will take effect as a matter of law on December 14, the Committee proposes that the Court adopt, as emergency measures, new Rule 1-101.1 and amendments to Rule 1-202 (n) and (aa), as follows:

Rule 1-101.1

"From and after December 14, 2022, any reference in these Rules or in any statute, ordinance, or regulation applicable in Maryland to the Court of Appeals of Maryland shall be deemed to refer to the Supreme Court of Maryland, and any reference to the Court of Special Appeals of Maryland shall be deemed to refer to the Appellate Court of Maryland. Unless otherwise specified, any reference in these Rules to the Supreme Court shall be deemed to refer to the Supreme Court of Maryland."

That Rule is followed by an explanatory Committee Note as follows:

"Committee note: By 2021 Maryland Laws, Chapters 82 and 83, the General Assembly proposed amendments to the Maryland Constitution to change the name of the Court of Appeals of Maryland to the Supreme Court of Maryland and to change the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. On December 14, 2022, the Governor certified that those amendments were adopted by the voters in the 2022 general election and took effect as of the date of the certification. There are hundreds of references to the former names of those Courts throughout the Maryland Rules, and the process of updating those references to conform to this Rule are underway."

Upon the adoption of the necessary amendments to those scattered references, the Committee Note can be repealed.

Rule 1-202

(n) Judge. "Judge" means a judge of a court of this State and refers, as applicable under the circumstances, to a judge of the court (1) to which the title, chapter, or rule applies or (2) in which the particular action or proceeding has been filed or properly could be filed. Subject to those conditions, "judge" includes a Justice of the Supreme Court of Maryland.

(aa) Senior Judge; Senior Justice. "Senior Judge" means: (1) in Rules 16-103 and 16-601 , an incumbent judge with the longest continuous period of incumbency on the court on which the judge serves, and (2) in all other Rules, an individual who (A) once served as a judge on the District Court, a circuit court, or an appellate court of this State, (B) retired from that office voluntarily or by operation of law by reason of age, and (C) has been approved for recall to sit as a judge pursuant to Md. Constitution, Art. IV, § 3A and Code, Courts Article, § 1-302. "Senior Justice" means a Senior Judge who has been designated to sit on the Supreme Court of Maryland in a case or other judicial matter pending before that Court.

Respectfully Submitted,

/ s /

Alan M. Wilner
Chair

AMW:sdm

cc: Gregory Hilton, Clerk

IN THE SEVENTH JUDICIAL CIRCUIT OF MARYLAND

ADMINISTRATIVE ORDER

WHEREAS, in 1971 Local Rule 714, regulating property bondsmen in the Seventh Judicial Circuit of Maryland, was enacted. Local Rule 714 was similar in scope to the statewide bail regulations established in 1970 but it was only applicable to the Circuit Courts of the Seventh Circuit; and

WHEREAS, since 1971 Local Rule 714 has undergone amendments and additions including Local Rule 714A. In accordance with MD Rule 16-805, the Seventh Circuit appointed a Bail Bond Commissioner to oversee the licensing of bondsmen and the collection of fees and that has been the long-standing system in the Seventh Circuit since the early 1970's; and

WHEREAS, pursuant to Maryland Code Criminal Procedure 5-203, a 1% fee was collected by the Bail Bond Commissioner on all bonds written in the Seventh Circuit. Those fees were paid to the county in which the bond was posted, and the fees were available to pay the expenses of the Office of the Bail Bond Commissioner; and

WHEREAS, in 2017, Maryland Rule 4-216.1 was adopted with the goal of reducing Courts' reliance on bail. This bail reform has significantly impacted the amount of fees collected by the Seventh Circuit; and

WHEREAS, the cost of administering the Bail Bond Management System which includes staff, auditing requirements and the creation of a new bail bond management system that would be compatible with the new statewide case management system in Maryland called *Maryland Electronic Courts*, hereinafter called (MDEC) is cost prohibitive; and

WHEREAS, Prince George's County is going live with MDEC on October 17, 2022 and the other counties in the Seventh Circuit are already on the paperless system; and

WHEREAS the Seventh Judicial Circuit is the only Judicial Circuit in Maryland that operates under Local Rules and with a Bail Bond Commissioner; and

WHEREAS the Seventh Circuit judges voted on February 25, 2022, to rescind the use of Local Bail Rules and a Bail Bond Commissioner in the Seventh Judicial Circuit; and

WHEREAS a committee comprised of Judges and the Court Administrator were appointed by the Chief and Administrative Judge to work out the logistics of the rescission of the Local Rules and a transition to a bail bond system consistent with the rest of the Judicial Circuits in Maryland.

NOW THEREFORE, pursuant to a vote by the Seventh Judicial Circuit on February 25, 2022, after a hearing and deliberations regarding Bail Bonds written in the Seventh Judicial Circuit, it is on this 28 day of March 2022, hereby

ORDERED, that the use of a Bail Bonds Commissioner in the Seventh Judicial Circuit and associated Local Rules 714 and 714A shall be rescinded in the manner detailed in this Administrative Order; and it is further

ORDERED, that the Seventh Judicial Circuit shall not issue new licenses to any bondspersons not validly licensed in the Seventh Judicial Circuit on June 30, 2022; and it is further

ORDERED, that effective July 1, 2022, all bondspersons writing on insurance in the Seventh Circuit shall hold Maryland State licensure and be subject to all state laws and regulations. Effective July 1, 2022, specific Seventh Judicial Circuit licensure will no longer be required by bondspersons writing on insurance in the Seventh Circuit; and it is further,

ORDERED, that all valid licenses issued by the Seventh Judicial Circuit to bondspersons writing on insurance shall expire on June 30, 2022; and it is further

ORDERED, that effective July 1, 2022, all provisions of Local Rules 714 and 714A that apply to bondspersons writing on insurance shall be rescinded in the Seventh Judicial Circuit; and it is further

ORDERED, that effective **July 1, 2023**, all bondspersons writing on property in the Seventh Judicial Circuit shall be required to hold Maryland State licensure and be subject to all state laws and regulations. Effective July 1, 2023, specific Seventh Judicial Circuit licensure will no longer be required by bondspersons writing on property; and it is

further

ORDERED, that all valid licenses issued by the Seventh Judicial Circuit to bondspersons writing on property **shall expire on June 30, 2023**; and it is further

ORDERED, that effective July 1, 2023, any property against which a bond was written that has property bond liens above the state maximum, may not have new bonds written against said property until it is below the state lien maximum; and it is further

ORDERED, that effective July 1, 2023, all provisions of Local Rules 714 and 714A shall be rescinded; and it is further

ORDERED, that effective July 1, 2022, the Seventh Judicial Circuit **shall no longer collect the 1% license fee for bonds written in the Seventh Judicial Circuit**; and it is further,

ORDERED that any outstanding license fees shall be paid in full by June 30, 2024.

SO ORDERED.

/ s /

Sheila R. Tillerson Adams
Chief and Administrative Judge
Prince George's County and
Seventh Judicial Circuit of Maryland

cc: Honorable Mark S. Chandlee
Honorable H. James West
Honorable Michael J. Stamm
Resident Judges in the Seventh Circuit
Nancy Faulkner, Court Administrator
Erica Payne-Santiago, Deputy Court Administrator/Jury Commissioner
George Harper, Esq.
Tommy Broadwater
Dennis H. Sew
Solomon Hamilton, President of Bond Association
Mahasin El Amin, Clerk of the Court for Prince George's County
Kathy Smith, Clerk of the Court for Calvert County
Sharon L. Hancock, Clerk of the Court for Charles County
Debra J. Burch, Clerk of the Court for St. Mary's County