

COURT OF APPEALS STANDING COMMITTEE
ON RULES OF PRACTICE AND PROCEDURE

Minutes of a meeting of the Rules Committee held via Zoom
for Government on Friday, February 11, 2022.

Members present:

Hon. Alan M. Wilner, Chair

H. Kenneth Armstrong, Esq.	Victor H. Laws, III, Esq.
Hon. Vicki Ballou-Watts	Dawne D. Lindsey, Clerk
Julia Doyle Bernhardt, Esq.	Bruce L. Marcus, Esq.
Hon. Pamela J. Brown	Donna Ellen McBride, Esq.
Hon. Yvette M. Bryant	Stephen S. McCloskey, Esq.
Hon. John P. Davey	Hon. Douglas R.M. Nazarian
Mary Ann Day, Esq.	Hon. Paula A. Price
Alvin I. Frederick, Esq.	Scott D. Shellenberger, Esq.
Pamela Q. Harris, Court Administrator	Gregory K. Wells, Esq.
Arthur J. Horne, Jr., Esq.	Hon. Dorothy J. Wilson
	Thurman W. Zollicoffer, Esq.

In attendance:

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

Josephine Bahn, Esq.
Brandy Cannon, Esq.
Ronald Canter, Esq.
Brian Field, Esq., MSBA
Polly Harding, Director of Administrative Services, District
Court
Katherine Howard, Esq., Maryland Multi Housing Association
Shaoli Katana, Esq., MSBA Liaison to Rules Committee
Lauren Lipscomb, Esq., Deputy State's Attorney
Lisa Mannisi, Esq., Case Administrator, Circuit Court for Anne
Arundel County
Hon. John Morrissey, Chief Judge, District Court
Phillip Robinson, Esq.
Shana Roth-Gormley, Esq., Community Law Center

Tom Stahl, Esq.
Gillian Tonkin, Esq., District Court

The Chair convened the meeting. The Reporter advised that the meeting was being recorded and speaking will be treated as consent to being recorded. The Chair welcomed new member Arthur J. Horne, Jr., managing partner at Shipley & Horne, P.A. in Largo. Mr. Horne thanked the Chair and said that he looks forward to working with the Committee.

Agenda Item 1. Consideration of proposed new Rule 1-314
(Disclosure Statement by Nongovernmental Corporate Party).

The Chair presented Rule 1-314, Disclosure Statement by Nongovernmental Corporate Party, for consideration.

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

ADD New Rule 1-314, as follows:

Rule 1-314. DISCLOSURE STATEMENT BY
NONGOVERNMENTAL CORPORATE PARTY

(a) Generally

A nongovernmental corporate party in a civil action shall comply with the disclosure requirement of Code, Courts Article, §6-412 by filing a disclosure statement in accordance with this Rule. An

entity other than a nongovernmental corporate party is not required to file such a statement.

(b) Required Disclosure Contents

A nongovernmental corporate party shall file a disclosure statement that (A) identifies any parent corporation and any publicly held corporation owning 10% or more of its stock, or (B) states that there is no such corporation.

(c) Time to File; Supplemental Statement

A disclosure statement under this Rule shall be filed with the party's first appearance, pleading, petition, motion, response, or other request addressed to the court. The party promptly shall file a supplemental statement if any required information changes.

Source: This Rule is new. It is derived from Fed. R. Civ. P. 7.1.

Rule 1-314 was accompanied by the following Reporter's note:

Proposed new Rule 1-314 effectuates the purpose of Code, Courts Article, § 6-412, which was enacted by Chapter 428 (SB 335), 2021 Laws of Maryland. The Rule is consistent with Fed. R. Civ. P. 7.1.

In keeping with the title and "purpose" clause of the statute, section (a) of the Rule requires a nongovernmental corporate party in a civil action to file a statement disclosing certain information. Section (a) clarifies that the filing requirement applies only to a nongovernmental corporate party and does not apply to other forms of entities, such as a partnership, a limited liability partnership, a limited liability

company as defined in Code, Corporations and Associations Article, § 4A-101(1), an unincorporated association, etc. Section (a) of the Rule is consistent with the plain language of the "stem" of section (a) of the statute ["A nongovernmental corporate party shall..."], by which the filing obligation imposed by the statute is imposed on corporations, only.

Sections (b) and (c) of the Rule are derived from Fed. R. Civ. P. 7.1, with stylistic changes.

Section (b) sets forth the contents of the required disclosure. The nongovernmental corporate party must (A) identify any parent corporation and any publicly held corporation owning 10% or more of its stock, or (B) state that there is no such corporation. Section (b) comports with the requirements of Fed. R. Civ. P. 7.1 (a) and Code, Courts Article, § 6-412(a)(1) and (5).

Section (c) requires that the statement be filed at the time of the nongovernmental corporate party's first appearance, pleading, petition, motion, response, or other request addressed to the court. If the information changes, a supplemental statement must be filed. Section (c) comports with the requirements of Fed. R. Civ. P. 7.1 (b), the timing requirement of Code, Courts Article, § 6-412(a), and the information supplementation requirement of Code, Courts Article, § 6-412(b).

The Chair informed the Committee that this is the third time a draft Rule to accompany Code, Courts Article, §6-413 has been presented for consideration. He noted that the statute is ambiguous and internally inconsistent.

The Chair outlined the history of the Rule. The first version of it was presented in October 2021, and the Committee voted to defer action. In November 2021, the Committee voted to reject the proposed Rule, and members at that time suggested that the General Assembly should take steps to clarify the statute. The Chair explained that the fundamental problem with the statute is that its title, which controls its scope, is "Nongovernmental Corporate Parties - Disclosure Statements." However, the body of the statute mentions both corporations and other business entities. He explained that previous drafts of the Rule presented to the Committee encompassed disclosures by business entities other than corporations.

The Chair said that the Court of Appeals has asked the Committee to revisit the Rule and draft a sensible version that is consistent with the stated purpose of Code, Courts Article, §6-413 but avoids the statute's inconsistencies. The draft in today's materials is consistent with the title and purpose of the statute, which refers to disclosure by nongovernmental corporate parties. It also is consistent with Rule 7.1 of the Federal Rules of Civil Procedure, the goal of which is to ensure that judges are aware of potential conflicts of interest that might require recusal. Fed. R. Civ. P. 7.1 is more limited than certain Federal local rules, including Local Rule 103.3 in the U.S. District Court in Maryland. The Chair explained that the

Court of Appeals has requested a draft for consideration. He expressed his recommendation that the Committee approve the latest proposal and recommend its adoption by the Court. He informed the Committee that the General Assembly may be encouraged to address the issues with the statute that have been raised before the Committee.

Judge Price commented that she previously had expressed concern over the inconsistencies in the statute. She said that she supports the proposed draft. The Chair called for a motion to approve the proposed Rule. Judge Price moved to approve Rule 1-314 as presented. The motion was seconded and approved by majority vote.

Agenda Item 2. Consideration of proposed amendments to Rule 3-113 (Process - Duration, Dormancy, and Renewal of Summons).

Judge Wilson presented Rule 3-113, Process - Duration, Dormancy, and Renewal of Summons, for consideration.

MARYLAND RULES OF PROCEDURE
TITLE 3 - CIVIL PROCEDURE - DISTRICT COURT
CHAPTER 100 - COMMENCEMENT OF ACTION AND
PROCESS

AMEND Rule 3-113 by changing the time a summons is effective for service after the date of issuance, as follows:

RULE 3-113. PROCESS - DURATION, DORMANCY,
AND RENEWAL OF SUMMONS

A summons is effective for service only if served within ~~30~~ 60 days after the date it is issued. A summons not served within that time shall be dormant, renewable only on written request of the plaintiff.

Committee note: See *Neel v. Webb Fly Screen Mfg. Co.*, 187 Md. 34, 48 A.2d 331 (1946).

Source: This Rule is new and replaces former M.D.R. 103 d 2.

Rule 3-113 was accompanied by the following Reporter's
note:

Rule 3-113 addresses the duration, dormancy, and renewal of a summons issued in the District Court. The District Court Subcommittee was informed that it is becoming more difficult to complete service on out-of-state defendants. Problems include delays at the post office and sheriff's departments refusals to accept electronic filings. A practicing attorney notified the Subcommittee that his firm has seen growing difficulties obtaining service on defendants, especially out-of-state defendants, within the thirty-day period.

To address the concerns, proposed amendments to Rule 3-113 alter the time within which to effectuate service from 30 days to 60 days after the summons is issued. This change mirrors the time permitted to effectuate service in the circuit courts. Instead of requiring a different service period based on whether the defendant is in Maryland or out-of-state, the Subcommittee recommends changing the general timeframe for any summons issued pursuant to Rule 3-113. The Subcommittee was advised that although this change may have an initial

impact on case time standards, it will also likely result in fewer summons renewal requests.

Judge Wilson informed the Committee that the proposed amendment to Rule 3-113 extends the time to effectuate service from 30 days to 60 days after the summons has been issued. She explained that the District Court Subcommittee was informed that due to postal delays and some sheriff's departments refusing to accept electronic filings, attorneys are having problems effectuating service outside of Maryland within 30 days. She noted that the amendment aligns the District Court Rule with the current circuit court summons Rule. Chief Judge Morrissey noted that trial dates in District Court may be set further out because of this change, but there likely will be fewer postponements if the need to renew summonses multiple times is eliminated by the change. He expressed his belief that the Rule change ultimately will make cases more efficient, but he plans to track its impact.

There being no motion to amend or reject proposed Rule 3-113, it was approved as presented.

Agenda Item 3. Consideration of proposed amendments to and proposed new Rules for Title 14, Chapter 600 (In Rem Foreclosure of Local Government Tax Liens).

Mr. McCloskey presented Title 14, Chapter 600, for consideration (see Appendix A).

Mr. McCloskey explained that the proposed amendments to Title 14, Chapter 600 implement the Homeowner Protection Program established by the Legislature in 2021 (Chapter 382, 2021 Laws of Maryland (HB 852)). He said that the legislation authorizes the State Department of Assessments and Taxation ("SDAT") to file a complaint seeking *in rem* foreclosure of local government tax liens in certain circumstances. A qualifying homeowner is enrolled in a program to repay the tax debt to SDAT. If the homeowner does not successfully complete the program, SDAT can foreclose on the home.

Mr. McCloskey said that the proposed amendments divide Chapter 600 into two Divisions, one containing the current Rules governing *in rem* foreclosure of local government tax liens, and the second containing new Rules governing foreclosure by the State. He explained that the Rules in Division 1 are amended to clarify their applicability.

Mr. McCloskey said that the new Rules begin with Rule 14-611, which outlines the applicability of the Rules in Division 2. He said that the Property Subcommittee chose to include the phrase "by or on behalf of the State Department of Assessments and Taxation" because it is unclear which entity will effectuate

the foreclosure. Mr. McCloskey said that Rule 14-612 sets forth definitions for actions under the statute. He noted that one type of "interested person" in subsection (c)(5) is any person with a current interest in the property. He explained that the statute does not state that the interest must be a current one, but the Subcommittee added that qualifier for clarity.

Mr. McCloskey continued that Rule 14-613 is the venue provision and is derived from the statute. He said that Rule 14-614 governs the complaint and is also derived largely from the statute. Section (d) specifies that the complaint must be accompanied by a statement showing that the homeowner and property qualify for foreclosure. The Chair asked if subsection (d)(2), which requires all reasonable efforts to assist the homeowner to have failed, should specify that the efforts to assist the homeowner were made. Mr. McCloskey responded that the section tracks the statute. The Deputy Reporter commented that the statement in subsection (d)(2) is an averment made by the Ombudsman in order to file the complaint. He explained that the statement cannot be made if the efforts have not been made. The Chair did not call for an amendment. Mr. McCloskey said that Rule 14-614 also includes a Committee note permitting amendment of the complaint to include any taxes that become delinquent after the filing of the action. He explained that this provision is in the statute, but the Subcommittee was

unsure if it would ever be needed. The choice was to relegate the provision to a Committee note. Judge Bryant pointed out that section (f) should read "the name and last known address of each interested party" rather than "the names and addresses..." The Chair agreed and Judge Bryant moved to amend section (f). By consensus, the Committee approved the amendment.

Mr. McCloskey said that Rule 14-615 governs process, posting, and mailing. Rule 14-616 governs the hearing, including the right to cure, the standard for finding that notice was given to interested parties, and the conduct of the hearing in general. Mr. Laws suggested that section (a) should clarify that the court must schedule a hearing "for a date" no earlier than 30 days after the acceptance of the filed complaint. The Deputy Reporter queried if Mr. Laws' suggestion would include an identical provision in Rule 14-606 (a). Mr. Laws agreed and moved to amend the two sections to add "for a date." By consensus, the Committee approved the amendment.

There being no further motion to amend or reject the proposed amendments to and proposed new Rules for Title 14, Chapter 600, the Rules were approved as amended.

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