

STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

NOTICE OF PROPOSED RULES CHANGES

The Rules Committee has submitted its One Hundred Seventy-Sixth Report to the Court of Appeals, transmitting thereby proposed new Title 20 (Electronic Filing and Case Management), new Rule 1-322.1 (Exclusion of Personal Identifier Information in Court Filings), and proposed amendments to Rules 1-101, 1-322, 16-723, 16-811, 16-1001, 16-1002, 16-1004, 16-1006, 16-1007, 16-1008, and 16-1009.

The Committee's One Hundred Seventy-Sixth Report and the proposed new rules and amendments are set forth below.

Interested persons are asked to consider the Committee's Report and proposed rules changes and to forward on or before March 25, 2013 any written comments they may wish to make to:

Sandra F. Haines, Esq.
Reporter, Rules Committee
2011-D Commerce Park Drive
Annapolis, Maryland 21401

BESSIE M. DECKER
Clerk
Court of Appeals of Maryland

February 7, 2013

The Honorable Robert M. Bell,
 Chief Judge
The Honorable Glenn T. Harrell, Jr.
The Honorable Lynne A. Battaglia
The Honorable Clayton Greene, Jr.
The Honorable Sally D. Adkins
The Honorable Mary Ellen Barbera,
The Honorable Robert N. McDonald
 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 One Hundred Seventy-Sixth Report and recommends that the Court adopt the new Rules and amendments to existing Rules transmitted with this Report.

INTRODUCTION

The Report consists of a new Title 20 to the Maryland Rules of Procedure, new Rule 1-322.1, and conforming amendments to existing Rules, all of which primarily are designed to provide the basic procedure for implementing the proposed new Maryland Electronic Case Management System. That System which, for convenience, we identify with the acronym MDEC (Maryland Electronic Courts), is currently due to commence in the District and Circuit Courts in Anne Arundel County between January and April 2014 and, in intervals thereafter, in those courts in the other counties and Baltimore City.

Title 20 consists of five Chapters:

- Chapter 100 - General Provisions
- Chapter 200 - Filing and Service
- Chapter 300 - Official Record
- Chapter 400 - Appellate Review
- Chapter 500 - Miscellaneous Rules

Independently of its drafting of the Rules in this Report, the Rules Committee has nearly completed a comprehensive reorganization of the Rules dealing with court administration, judges, and attorneys, most of which are in, or are appendices to, Title 16. Those proposed revisions will be submitted to the Court in the near future. If adopted, they will require some cross-reference amendments to the Rules in this Report.

CHAPTER 100 - GENERAL PROVISIONS

Rule 20-101 - Definitions

Rule 20-101 contains the definitions applicable to Title 20. Most are self-explanatory. The definitions of "affected action," "applicable county," and "applicable date" have particular reference to Rule 20-102, which documents when the MDEC System takes effect in the various counties. The definitions of "digital signature," "facsimile signature," "hand-signed or handwritten signature," and "typographical signature" have particular reference to Rule 20-107, dealing with how electronically filed documents are to be signed. The definitions of "redact" and "restricted information" have particular reference to Rules 20-109, 20-201, and 20-203. "Submission" is the term used to indicate any document filed in an action, other than an item offered in open court.

Rule 20-102 - Application of Title to Courts and Actions

Rule 20-102 is a transitional Rule that accommodates the sequential application of MDEC in the various counties. Section (a) deals with the trial courts - the Circuit and District Courts. Section (b) deals with appellate proceedings emanating from the trial courts that are in the MDEC System.

Subsection (a)(1) is structured so that, as additional counties come into the MDEC System, application of Title 20 to the courts in those counties can be achieved through a simple two-line amendment that merely identifies the county and the date it came into MDEC. Subsection (a)(2)(A) sets forth the application of MDEC to proceedings in those counties - new actions filed after the "applicable date," new submissions in actions then pending, and new submissions in actions that had been concluded but reopened or that were remanded or transferred after the applicable date. Subsection (a)(2)(B) permits the county administrative judge of a Circuit Court or the Chief Judge of the District Court, with the approval of the State Court Administrator, to direct the conversion of existing paper files to electronic format. This may be useful when the existing file is not large and it is expected that additional filings in

electronic format will be made, so that the entire file will be in electronic format.

Section (b), together with the Rules in Chapter 400, applies Title 20 to appellate proceedings emanating from the trial courts in the MDEC counties. Essentially, this means that, in appeals and applications for leave to appeal from orders or judgments entered in MDEC counties, the appellate court will receive an electronic record and electronic briefs, extracts, and other filings, although the Chapter 400 Rules also require that a reduced number of paper copies - sufficient for each judge to have one - be filed. See further discussion in connection with the Chapter 400 Rules. Section (b) permits, but does not require, the Court of Appeals to apply Title 20 to proceedings on questions certified under Code, Courts Article, §§12-601 through 12-613, and to original actions allowed by law.

Section (c) makes clear that all of the existing Maryland Rules continue to apply to MDEC cases, except to the extent of any inconsistency with Title 20, in which event the Title 20 Rules will prevail.

Rule 20-103 - Administration of MDEC

Rule 20-103 makes the State Court Administrator, subject to supervision by the Chief Judge of the Court of Appeals, responsible for the overall operation of the MDEC System. It requires the State Court Administrator to adopt and publish policies and procedures consistent with the Maryland Rules and other law, as well as a pamphlet explaining the system and providing clear instructions on how to use and access it.

Rule 20-104 - User Registration

Rules 20-104, 20-105, and 20-106 set forth the requirements for who is eligible to file, and who must file, submissions in electronic format. With the exception of judicial officials and employees, dealt with in Rule 20-105, in order to file electronically, an individual must be a registered user. Rule 20-104 governs the registration process.

Any individual may become a registered user simply by completing an on-line application prescribed by the State Court Administrator. It is anticipated that the application will contain a brief tutorial to assure that the applicant understands the basic rules and procedures for filing submissions and accessing MDEC and an agreement to comply with the MDEC Rules and the policies and procedures adopted and published by the State Court Administrator.

Upon completion of the registration process, which should take but a few minutes, the State Court Administrator will issue to the registered user, on-line, a unique user identification number, a username, and a password which, together, will permit the registered user to file electronically submissions that he or she is otherwise authorized to file and to have the access provided by Rule 20-109. The registered user may change the username and password in accordance with the published policies and procedures but may not change the unique user identification number. Registration helps to assure that the identity of persons accessing the MDEC system can be ascertained which, in turn, helps to ensure that persons attempting to access the system are authorized to do so.

Section (e) prohibits an individual from having more than one user identification number and provides for the cancellation of all of his or her user identification numbers if it is discovered that the individual has acquired more than one. Because attorneys of record in a case will have broader remote access to case files than members of the general public, it is important for the MDEC System to know which registered users are members in good standing of the Maryland Bar. The application will require that information, and the unique identification number assigned by the State Court Administrator will so identify the registrant. Section (f) provides for the revocation, suspension, and reinstatement of attorney user registration upon the suspension, disbarment, resignation, decertification, or reinstatement of attorneys.

Rule 20-105 - Judges; Judicial Appointees; Clerks; Judicial Personnel

Judicial officials and employees are regarded as part of the system and not outsiders to it. They will not need to become registered users but, by virtue of their office or employment, will be assigned a username and password that will permit them to access the MDEC System to the extent necessary to the performance of their official duties. To access MDEC in a personal capacity, the official or employee will need to become a registered user, like any other member of the public, and access MDEC only through that registration. The Rules Committee will be considering amendments to Rules governing the conduct of judges, judicial appointees, and judicial personnel that would make any inappropriate use of official access for personal objectives cause for discipline. Section (b) provides for the revocation of official access upon notice that the judicial official or employee has left judicial office or employment.

Rule 20-106 - When Electronic Filing Required; Exceptions

Rule 20-106 implements the policy decisions made by the Court in September 2012 regarding the extent to which electronic filing in "affected actions" will be mandatory. Section (a) deals with who must file electronically - attorneys, judicial officials and employees, self-represented litigants who are registered users, and other registered users who are permitted or required to file submissions. Self-represented litigants and other persons who are not registered users must file in paper form. The option for self-represented litigants and other non-attorneys and non-judicial officials or employees to file in paper form is thus cast in the context of whether they have chosen, voluntarily, to become registered users.

Section (b) sets forth three circumstances in which a person otherwise required to file submissions electronically need not do so. The first is when there is an MDEC System outage, as described in Rule 20-501, that makes MDEC inaccessible. For electronic filing purposes, that is the equivalent of the clerk's office being closed. The second is an unexpected event that precludes the filer from transmitting documents electronically - a computer failure, loss of power, etc. that affects not the ability of MDEC to receive but the ability of the filer to send. In that circumstance, the filer may file a submission in paper form if accompanied by an affidavit describing the problem, attesting to its unexpected nature, and indicating when it may be resolved. The third is some "other good cause" temporary in nature. That is in the nature of a catchall, but it requires approval by the administrative judge and is available only when the circumstances justifying it are temporary in nature.

Section (c) deals with the kinds of submissions that must, and that may not, be filed electronically. The requirement of electronic filing applies generally to all submissions that are capable of being converted into electronic format and that, in electronic form, may be re-converted into a legible paper document. There are exceptions for documents containing more than 300 pages, oversize documents, documents offered as evidence or for inclusion in the record in open court pursuant to Rule 20-106 (e), items that are impracticable to be filed electronically because of their physical characteristics, and other categories of submission that the State Court Administrator exempts. Some States exempt certain kinds of original documents - wills, birth certificates, etc. Rule 20-106 permits those documents to be scanned and filed electronically, but requires the filer to retain the original paper document.

Section (d) sets forth the procedure to be followed when submissions are made in paper form. Under subsection (d)(1), if the submission is permitted to be filed in paper form, the clerk

first will review it to make certain that it is signed (Rule 20-201 (c)), that it contains a certificate of service (Rule 20-201 (d)), that it contains a certificate regarding restricted information (Rule 20-201 (e)(1)(B)), and that the submission is accompanied by any required fee or a waiver of the fee (Rule 20-201 (h)). That review is regarded as ministerial in nature, as the existence of those items should be readily ascertainable. It is there or it is not. If the submission is not in compliance, the clerk must decline to scan it and promptly notify the filer that the submission was rejected.

Subsection (d)(1) changes current practice in two respects. First, under Rule 1-311 (c), if a pleading or paper is not signed as required (unless the omission was inadvertent and promptly corrected) "it may be stricken and the action may proceed as though the pleading or paper had not been filed." Subsection (d)(1) provides that, if the submission is not signed as required, the clerk shall decline to scan it and notify the filer. The reason for the change is that, once the submission is scanned, the paper filing may be destroyed, in which event there will be no opportunity to correct the omission. The clerk could, in the notice, permit the filer either to file a new submission properly signed or come to the clerk's office and sign the non-compliant document. The second change is the additional requirement of a certificate regarding restricted information. If that certificate is not present, there is no assurance that the submission does not contain prohibited restricted information. See proposed Rules 1-322.1 and 20-201 (e).

If the submission presented in paper form is one that is required to be filed electronically, the clerk must decline to scan it for that reason, notify the filer, and enter on the docket that the submission was received and rejected. The filer may seek review of the clerk's action by filing a motion with the administrative judge. As the Committee note explains, this provision is deemed necessary to enforce the electronic filing requirement.

Subsections (d)(2), (3), and (4) deal with what happens to the paper submission after it is scanned into the MDEC system. The clerk may destroy the paper document or return it to the filer under procedures approved by the State Court Administrator. Some clerks are reluctant to have to store the paper documents or to be required to incur the effort and expense of returning them to the filers or notifying the filers to retrieve them. Subsection (d)(4) requires the State Court Administrator to provide public notice that, unless arrangements are made with the clerk, the paper documents may be destroyed, and the Committee Note suggests ways in which such notice may be given.

Section (e) deals with exhibits and other documents offered in open court. The Rule permits the court to allow the parties to pre-file exhibits electronically, which may be useful in document-laden cases where there is not likely to be significant dispute over the admissibility of the documents. Many litigants, however, particularly in District Court cases but in Circuit Court as well, will be unable to do that but will instead arrive in court on the day of trial with exhibits in paper form. Those exhibits (and occasionally motions or other documents) will be offered as they are currently but will be scanned by the clerk as soon as practicable.

Rule 20-107 - Electronic Signatures

Rule 20-107 provides for how electronically filed submissions must, or may, be signed. There are three types of electronic signatures - a typographical signature ("/s/" followed by the typed name); a facsimile signature, which is a scanned image or other visual representation of a handwritten signature; and a digital signature, which may be in the visual form of a typographical or facsimile signature but is affixed by an encryption process that assures the identity of the signer and the genuineness of the document. See Rule 20-101 (h).

An electronic signature of a judge or judicial appointee must be either a digital signature or a scanned handwritten signature. Those types have the greatest reliability, which is critical on orders, judgments, and other documents signed by judges and judicial appointees. The affixing of a digital signature is not difficult. The judge or judicial appointee will have a special key or code that, when entered, will produce the digital signature. The judge can determine the form in which the signature will appear on the document; the judge's name may appear in print or in the judge's handwriting. The electronic signature of a clerk also must be either a digital or facsimile signature. Subject to sections (d), (e), and (f), a facsimile or typographical signature will suffice for all other filers.

Rule 20-108 - Delegation of Authority to File

The filing of submissions in paper form is usually a two-step process. The filer must personally sign the document and then take or send it to the clerk's office for filing, either personally or through an agent. Electronic filings also have the two-step process of signing and then sending, but the two steps can occur almost simultaneously - one click to sign and another to send. Rule 20-108 makes no substantive change. It continues the requirement that the filer must personally sign the submission, in accordance with Rule 20-107, but permits the

signer to authorize an assistant to complete the process of filing the submission. The Rule makes clear that the filer is responsible for assuring that there is no unauthorized use of the signer's username or password.

Rule 20-109 - Access to Electronic Court Records

The Rules governing access to court records are currently in Title 16, Chapter 1000. To the extent, under MDEC, that case records will be on-line, remote electronic access to those records becomes an issue in need of clarification. In September 2012, the Court decided, as a matter of policy, that access to on-line records should be generally equivalent to the access now provided to paper records. Rule 20-109, together with amendments to some of the Rules in Title 16, Chapter 1000 included in this Report, is intended to provide that general equivalence.

Under section (b), subject to any protective order entered by the court, parties and attorneys of record in an affected action will have full access, including remote access, to all case records *in that action*. Under section (c), subject to limitations defined in an Administrative Order of the Chief Judge of the Court of Appeals, judges and judicial appointees will have full access, including remote access, to all court records to the extent such access is necessary to the performance of their official duties. Under section (d), subject to written directives of the State Court Administrator, clerks and judicial personnel will have full access, from their work stations, to all court records, to the extent such access is necessary to the performance of their official duties.

The public currently has two forms of access to court records. Through the Case Search program, the public has free remote access, Statewide, to the names of litigants and docket entries. To see any other case records, they must go to the clerk's office where the records are kept, where they can inspect, and obtain copies of, any unshielded records in the file. Section (e) provides that equivalent access - remote access through the Case Search program, as it may be modified from time to time, and free access to other unshielded case records through terminals at the clerk's office. The clerks are required to provide a reasonable number of such terminals.

CHAPTER 200

Rule 20-201 - Requirements for Electronic Filing

Rule 20-101 provides eight requirements for electronic filing: (1) that the filer is authorized by law to file the

submission; (2) that the filer complies with the published policies and procedures adopted by the State Court Administrator; (3) that the submission is signed as required by Rule 20-107; (4) that if the submission is required to be served, whether electronically or by some other method, it contains a proper certificate of service; (5) that the submission contains a certificate regarding restricted information; (6) that if the submission is to be sealed, it complies with section (f) of the Rule; (7) that if it contains an order to be signed by a judge or judicial appointee, the proposed order is in editable form; and (8) that any applicable fee has been paid or waived. It is anticipated that the MDEC filing screen will be user-friendly and either contain sufficient prompts to facilitate a proper filing or prevent the transmission if a prerequisite is not satisfied.

Rule 20-201 (e) introduces the topic of restricted information, which is defined in Rule 20-101 (s) and also is dealt with in Rules 20-203 (c) and (e) and 1-322.1. The current Rules provide no limitation on the inclusion of sensitive personal identifier information in court records, although the access Rules in Title 16, Chapter 1000 do provide for the partial shielding of some of that information. Since the initial adoption of the access Rules by the Court of Appeals in 2004, the Federal courts and courts in other States have adopted the view that, unless there is some particular need to do so, that kind of personal identifier information should not be included in court records in the first place. If the information *is* included because it is necessary in the particular case, it may be subject to shielding. The proposals in this Report - Rules 20-101 (s), 20-201 (e), 20-203 (c) and (e), and 1-322.1 - follow that approach.

Rules 20-101 (s) and 1-322.1 define the kind of information to be excluded. Those Rules were taken from and are generally consistent with, though not identical to, Fed. R. Civ. P. 5.2 and Rules adopted in other States. Rule 20-201(e), together with Rule 20-203 (c) and (e), provide a simple and balanced way of implementing the policy through a combination of exclusion and shielding: (1) redact the restricted information from the document; (2) if the restricted information is deemed necessary, either request that the document be sealed or file both a redacted version and an unredacted version; and (3) include in the filing a certificate either that the submission does not contain restricted information or, if it does, why it is necessary and how that information is proposed to be protected. Although the court and, subject to any protective order, the parties would have full access to the unredacted version, public access would be limited to the redacted version.

Rule 20-202 - Effective Date of Filing

Rules 20-202 and 20-203 need to be read together. Under Rule 20-202, the MDEC System will record the date and time an electronically filed submission is received by MDEC. Subject to Rule 20-203, the date so recorded will be the effective date of filing and will serve as the docket date of the submission.

Rule 20-203 - Review by Clerk; Striking of Submission; Delinquency Notice; Correction; Enforcement

Comparable to the procedure set forth in Rule 20-106 (d) (1) with respect to paper filings, Rule 20-203 (a) requires the clerk to review electronically filed submissions, other than those filed by judges or judicial appointees, to assure that they are signed, that they contain a certificate of service, that they contain a certificate regarding restricted information, and that any required fee has been paid or waived. If there is an omission in that regard, section (c) requires the clerk to strike the submission, notify the filer and the other parties, and enter on the docket that the submission was received and stricken. The filer may seek review of the clerk's action by filing a motion with the administrative judge. Because of the anticipated prompts or blocks on the MDEC filing screen and the fact that the existence of the required items is easily ascertainable, there should be few problems in this regard.

Normally, the caption placed on the submission by the filer will become the docket entry, but there may be circumstances in which that caption may be incorrect in some manner and not truly reflective of the nature of the submission. Under subsection (b) (1), the clerk may correct errors of non-compliance that apply to the form and language of the proposed docket entry.

Under section (d), if the submission is not subject to striking under section (c) but materially violates a Rule or published policy of the State Court Administrator, the clerk must send a deficiency notice to the filer describing the nature of the violation. If the violation is not corrected within two business days, any party may move to strike the submission. The deficiency notice approach was taken largely from the practice of the U.S. District Court for the District of Maryland.

Under section (e), if, after a submission has been filed, it is discovered that the submission contains restricted information, the clerk must issue a deficiency notice and shield the submission from public inspection until the deficiency is corrected. If, pursuant to Rule 20-201 (e) (2), a party has electronically filed both a redacted and unredacted submission, the clerk must shield the unredacted version. Any party or the

subject of the restricted information may file a motion to strike the unredacted version.

Rule 20-204 - Notice of Filing Tangible Item

A tangible item is an item that is not required to be filed electronically and, unless it is a physical object other than a document, generally will be filed in paper form. Rule 20-204 requires the filer to file electronically a notice that such an item has been filed. The notice must describe the item, identify the electronic submission to which the item is attached, and explain why the item could not have been filed electronically.

Rule 20-205 - Service

Original process, subpoenas, and submissions required to be served on a person who is not a registered user will be served in accordance with existing Rules. Court orders and notices and other submissions will be served electronically by MDEC on registered users entitled to service. A Committee note calls attention to the fact that, when service is made electronically by MDEC, the three-day extension for responses to submissions served by mail, provided by Rule 1-203 (c), does not apply.

Rule 20-206 - Notice of Filing of Discovery Material

Rule 20-206 provides a special benefit to parties and their attorneys. Discovery material - requests and responses - must be served on the other parties but is not filed with the court. The material can be voluminous and, in a multi-party case, expensive to mail. Under Rule 20-206, that material can be transmitted to MDEC electronically. Only the notice will actually be filed, but MDEC will serve the material electronically on registered users entitled to service.

CHAPTER 300

Rule 20-301 - Content of Official Record

In conformance with the policy decision made by the Court in September 2012, the official record in an MDEC case will consist of the electronic version of all documents filed electronically or scanned into MDEC, all items that exist only in non-electronic form, a transcript of all court proceedings, and all other documents that the court orders be part of the record.

Rule 20-302 - Duty to Retain Records

A party who files a submission required to be under oath, a redacted document, or any other document that the court requires be preserved must retain the document until the case is concluded or for such longer period required by court order or applicable law.

CHAPTER 400

Rules 20-401 through 20-405

The Rules in Chapter 400 implement Rule 20-102 (b), which applies the Title 20 Rules to appellate proceedings emanating from orders and judgments in affected cases, *i.e.*, appeals in cases that were subject to MDEC in the trial court. The record that the appellate court will receive will be the record compiled pursuant to Rule 20-301, which will be mostly, if not entirely, in electronic form. Consistent with Rules adopted by the U.S. Court of Appeals for the Fourth Circuit and in some other States, submissions in the appellate courts also will be in electronic format, except that eight paper copies of all such submissions - briefs, record extracts, motions, etc. - must be filed. There is no magic to the number eight. It was selected:

(1) in the Court of Special Appeals, to provide one paper copy for the Chief Judge, one for each panel judge, two for the Court of Appeals by-pass committee, one for the clerk, and one extra; and

(2) in the Court of Appeals, to provide one paper copy for each judge and one for the clerk.

As at present, opinions will be filed in electronic format. An open question, not yet resolved, is whether, or when, the case processing operations in the two appellate courts will become part of MDEC. It is not clear, at this point, whether that is a "Rules issue," although it would certainly appear to be one of significant interest to the clerks of the two courts.

CHAPTER 500

Rule 20-501 - MDEC System Outage

Rule 20-501 implements Rule 20-106 (b)(1). In the event of an MDEC System outage, either full or partial, the State Court Administrator is obliged to notify all registered users by posting a system failure notice on the Judiciary website or by

other electronic means, noting the date and time of the failure and the courts effected. When the system is repaired, notice of that fact must be given. During the period of outage, the affected courts are deemed to be inaccessible. If the outage is in effect for any portion of a day that the time to file a submission expires, the time to file is automatically extended until the first full day, other than a Saturday, Sunday, or legal holiday that the court is able to accept electronic filings. At any time during the outage, a registered user may file the submission in paper form if the court is otherwise open for business.

Rule 20-502 - Removal to and Remand from United States District Court

The U.S. District Court for the District of Maryland has an electronic filing and record system, but it may not be entirely compatible with MDEC. Rule 20-502 directs the State Court Administrator to enter into discussions with the District Court in an attempt to develop a mutually agreeable plan for the transmission of electronic case records between the District Court and a Maryland court and to present any such plan to the Court of Appeals for approval.

Rule 20-503 - Archival of Records

Current Rules and statutes provide for the transfer of court records to the State Archives after certain periods. See Rules 16-505 (District Court) and 16-818 (Circuit Courts) and Code, State Government Article, §10-639. The transfer is predominantly of paper records. MDEC presents some new issues that likely will require alterations in the current procedures. Rather than attempt to predict the nature and form of any such alterations and draft Rules at this point, the Committee proposes in Rule 20-503 an approach similar to that in Rule 20-502 - that the State Court Administrator work with the State Archivist to develop a plan for the transmission of electronic case records to the State Archives and present the plan to the Court. The Rule sets forth the kinds of matters that will need to be dealt with in the plan.

RULE 1-322.1

Included in this Report is a proposed new Rule 1-322.1, which provides for the exclusion from court records of certain personal identifier information that does not need to be in the records - Social Security and taxpayer identification numbers, birth dates, and numeric or alphabetic characters in financial and medical accounts. This is taken, in part, from Federal Rules

and Rules adopted in other States. The Rule provides exceptions to the preclusion and alternatives when all or some of that information is necessary in a particular case. Some of the provisions of the proposed Rule also are included in Rules 20-201 (e) and 20-203 (c) and (e).

CONFORMING AMENDMENTS TO EXISTING RULES

The balance of this Report consists of conforming amendments to Rules 1-101, 1-322, 16-723, 16-811, 16-1001, 16-1002, 16-1004, 16-1006, 16-1007, 16-1008, and 16-1009.

Respectfully submitted,

Alan M. Wilner
Chair

AMW:cdc

cc: Hon. Robert A. Zarnoch, Vice-Chair
Bessie M. Decker, Clerk

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

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MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

Rule 20-101. DEFINITIONS

In this Title the following definitions apply except as expressly otherwise provided or as necessary implication requires:

(a) Affected Action

"Affected action" means an action to which this Title is made applicable by Rule 20-102.

Cross reference: For the definition of an "action" see Rule 1-202.

(b) Appellate Court

"Appellate court" means the Court of Appeals or the Court of Special Appeals, whichever the context requires.

(c) Applicable County

"Applicable county" means a county listed in Rule 20-102 (a).

(d) Applicable Date

"Applicable date" for an applicable county means the date stated in Rule 20-102 (a) pertaining to that county.

(e) Business Day

"Business day" means a day that the clerk's office is open for the transaction of business.

(f) Clerk

"Clerk" means the Clerk of the Court of Appeals, the Court of Special Appeals, or a circuit court, an administrative clerk of the District Court, and the deputy clerks in those offices.

(g) Concluded

An action is "concluded" when

(1) there are no pending issues, requests for relief, charges, or outstanding motions in the action or the jurisdiction of the court has ended;

(2) no future events are scheduled; and

(3) the time for appeal has expired or, if an appeal or an application for leave to appeal was filed, all appellate proceedings have ended.

Committee note: This definition applies only to the Rules in Title 20 and is not to be confused with the term "closed" that is used for other administrative purposes.

(h) Digital Signature

"Digital signature" means a secure electronic signature inserted using a process approved by the State Court Administrator that uniquely identifies the signer and ensures authenticity of the signature and that the signed document has not been altered or repudiated.

(i) Facsimile Signature

"Facsimile signature" means a scanned image or other visual representation of the signer's handwritten signature, other than a digital signature.

(j) Filer

"Filer" means a person who is accessing the MDEC system for

the purpose of filing a submission.

Committee note: The internal processing of documents filed by registered users, on the one hand, and those transmitted by judges, judicial appointees, clerks, and judicial personnel, on the other, is different. The latter are entered directly into the MDEC System, whereas the former are subject to clerk review under Rule 20-203. For purposes of these Rules, however, the term "filer" encompasses both groups.

(k) Hand-Signed or Handwritten Signature

"Hand-signed or handwritten signature" means the signer's original genuine signature on a paper document.

(l) Hyperlink

"Hyperlink" means an electronic link embedded in an electronic document that enables a reader to view the linked document.

(m) Judge

"Judge" means a judge of the Court of Appeals, Court of Special Appeals, a circuit court, or the District Court of Maryland and includes a former judge of any of those courts recalled pursuant to Code, Courts Article, §1-302 and designated to sit in one of those courts.

(n) Judicial Appointee

"Judicial appointee" means a judicial appointee, as defined in Rule 16-814.

(o) Judicial Personnel

"Judicial personnel" means an employee of the Maryland Judiciary, even if paid by a county, who is employed in a category approved for access to the MDEC system by the State Court Administrator;

(p) MDEC or MDEC System

"MDEC" or "MDEC system" means the system of electronic filing and case management established by the Maryland Court of Appeals.

Committee note: "MDEC" is an acronym for Maryland Electronic Courts.

(q) Redact

"Redact" means to exclude information from a document accessible to the public.

(r) Registered User

"Registered user" means an individual authorized to use the MDEC system by the State Court Administrator pursuant to Rule 20-104.

(s) Restricted Information

"Restricted information" means information (1) prohibited by Rule or other law from being included in a court record, (2) required by Rule or other law to be redacted from a court record, (3) placed under seal by a court order, or (4) otherwise required to be excluded from the court record by court order.

Cross reference: See Rule 1-322.1 (Exclusion of Personal Identifier Information in Court Filings) and the Rules in Title 16, Chapter 1000 (Access to Court Records).

(t) Scan

"Scan" means to convert printed text or images to an electronic format.

(u) Submission

"Submission" means a pleading or other document filed in an

action. "Submission" does not include an item offered or admitted into evidence in open court.

Cross reference: See Rule 20-402.

(v) Tangible Item

"Tangible item" means an item that is not required to be filed electronically. A tangible item by itself is not a submission; it may either accompany a submission or be offered in open court.

Cross reference: See Rule 20-106 (c) (2) for items not required to be filed electronically.

Committee note: Examples of tangible items include an item of physical evidence, an oversize document, and a document that cannot be legibly scanned or would otherwise be incomprehensible if converted to electronic form.

(w) Trial Court

"Trial court" means the District Court of Maryland and a circuit court, even when the circuit court is acting in an appellate capacity.

Committee note: "Trial court" does not include an orphans' court, even when, as in Harford and Montgomery Counties, a judge of the circuit court is sitting as a judge of the orphans' court.

(x) Typographical Signature

"Typographical signature" means the symbol "/s/" affixed to the signature line of a submission above the typed name, address, e-mail address, and telephone number of the signer.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

Rule 20-102. APPLICATION OF TITLE TO COURTS AND ACTIONS

(a) Trial Courts

(1) Applicable Counties and Dates

(A) Anne Arundel County is an applicable county from and after _____.

(B) There are no other applicable counties.

Committee note: The MDEC Program will be installed sequentially in other counties over a period of time. As additional counties become applicable counties, they will be listed in new subsections (a) (1) (B) through (a) (1) (X).

(2) Actions, Submissions, and Filings

(A) New Actions and Submissions

On and after the applicable date, this Title applies to (i) new actions filed in a trial court for an applicable county, (ii) new submissions in actions then pending in that court, (iii) new submissions in actions in that court that were concluded as of the applicable date but were reopened on or after that date, (iv) new submissions in actions remanded to that court by a higher court or the United States District Court, and (v) new submissions in actions transferred to that court.

(B) Existing Documents; Pending and Reopened Cases

With the approval of the State Court Administrator, (i) the County Administrative Judge of the circuit court for an

applicable county, by order, may direct that all or some of the documents that were filed prior to the applicable date in a pending or reopened action in that court be converted to electronic form, and (ii) the Chief Judge of the District Court, by order, may direct that all or some of the documents that were filed prior to the applicable date in a pending or reopened action in the District Court be converted to electronic form. Any such order shall include provisions to ensure that converted documents comply with the redaction provisions applicable to new submissions.

(b) Appellate Courts

This Title applies to appeals and other proceedings in the Court of Special Appeals or Court of Appeals seeking the review of a judgment or order entered in any action to which section (a) of this Rule applies. If so ordered by the Court of Appeals in a particular matter or action, the Title also applies to (1) a question certified to the Court of Appeals pursuant to the Maryland Uniform Certification of Questions of Law Act, Code, Courts Article, §§12-601 - 12-613; and (2) an original action in the Court of Appeals allowed by law.

(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.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

Rule 20-103. ADMINISTRATION OF MDEC

(a) General Authority of State Court Administrator

Subject to supervision by the Chief Judge of the Court of Appeals, the State Court Administrator shall be responsible for the administration of the MDEC system and shall implement the procedures established by the Rules in this Title.

(b) Policies and Procedures

(1) Authority to Adopt

The State Court Administrator shall adopt policies and procedures that are (A) necessary or useful for the proper and efficient implementation of the MDEC System and (B) consistent with (i) the Rules in this Title, (ii) other provisions in the Maryland Rules that are not superseded by the Rules in this Title, and (iii) other applicable law.

(2) Publication of Policies and Procedures

Policies and procedures adopted by the State Court Administrator that affect the use of the MDEC system by court personnel, attorneys, or members of the public shall be posted on the Judiciary website and, upon written request, shall be made available in printed form by the State Court Administrator.

(c) Instructional Pamphlet

(1) Generally

The State Court Administrator shall prepare, post on the Judiciary website, and make generally available to the public in printed form an instructional pamphlet explaining the MDEC system and providing clear and simple instructions as to how to use and access the system and as to any limitations or conditions on such use and access.

(2) Updated Pamphlets

The State Court Administrator shall keep the pamphlet current to reflect and highlight changes in policy and procedures.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

Rule 20-104. USER REGISTRATION

(a) Eligibility

Any individual may apply to become a registered user in accordance with this Rule.

(b) On-line Application

An individual seeking to become a registered user shall complete an on-line application in the form prescribed by the State Court Administrator. The form shall include an agreement by the applicant to comply with MDEC policies and procedures and the Rules in this Title and a statement as to whether the applicant is an attorney and, if so, is a member of the Maryland Bar in good standing.

(c) Identification Number, Username, and Password

Upon successful completion of the registration process in accordance with section (b) of this Rule and any verification that the State Court Administrator may require, the individual becomes a registered user. The State Court Administrator shall issue to the registered user a unique user identification number, a username, and a password, which together shall entitle the registered user to file submissions electronically in an affected action to which the registered user is a party or is otherwise

entitled to file the submission and have the access provided by Rule 20-109. The registered user may not change the unique identification number issued by the State Court Administrator but may change the assigned username and password in conformance with the policies and procedures published by the State Court Administrator.

(d) Effect of Registration

By registering with the State Court Administrator as a registered user, an individual agrees to comply with the Rules in this Title and the MDEC policies and procedures established and published by the State Court Administrator.

(e) Multiple User Identification Numbers Prohibited

(1) Cancellation of User Registration

A registered user may not have more than one user identification number at a time. If the State Court Administrator believes that an individual has more than one user identification number, the State Court Administrator shall notify the individual, at the individual's most recent e-mail address provided to the State Court Administrator, that all of the individual's identification numbers will be cancelled unless the individual shows good cause to the contrary within 30 days after the date of the notice. If the individual fails to make that showing, the State Court Administrator shall cancel all of the individual's identification numbers and revoke the user's registration. The individual may seek review of the State Court Administrator's action pursuant to the Rules in Title 7, Chapter

200 of the Maryland Rules.

(2) Re-application for User Registration

An individual whose user registration has been cancelled may reapply for user registration, but the State Court Administrator may reject the application unless reasonably satisfied that the individual will comply with the Rules in this Title and with all policies and procedures adopted by the State Court Administrator.

(f) Revocation, Suspension, Reinstatement of Attorney User Registration

(1) Duty of Clerk of Court of Appeals

The Clerk of the Court of Appeals shall promptly notify the State Court Administrator of each attorney (A) who, by order of the Court, becomes disbarred, suspended, placed on inactive status, or decertified or who has resigned from the Maryland Bar or (B) who, following a disbarment, suspension, placement on inactive status, decertification, or resignation, has been reinstated to the practice of law in Maryland.

(2) Duty of State Court Administrator

Promptly upon receipt of such notice, the State Court Administrator shall (A) revoke the user registration of each attorney who has been disbarred or placed in inactive status or who has resigned, (B) suspend the user registration of each attorney who has been suspended or decertified, (C) reinstate the user registration of an attorney who has been reinstated, and (D) take any necessary steps to be reasonably satisfied that the MDEC

system does not accept any electronic filings from an attorney whose user registration has been revoked or suspended and not reinstated.

(3) Withdrawal of Appearance

An attorney whose registration has been suspended or revoked under this section shall file any submissions required by the Rules of Professional Conduct in paper form.

(4) Application for User Registration as a Non-attorney

An attorney whose user registration has been suspended or revoked under this section may apply for user registration as a non-attorney. The State Court Administrator may reject the application unless reasonably satisfied that the individual will comply with the Rules in this Title and with all policies and procedures adopted by the State Court Administrator.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

Rule 20-105. JUDGES; JUDICIAL APPOINTEES; CLERKS; JUDICIAL PERSONNEL

(a) Assignment of Username and Password

The State Court Administrator shall assign to each judge, judicial appointee, clerk, and judicial personnel a username and password that will allow the judge, judicial appointee, clerk, or judicial personnel to access the MDEC System to the extent necessary to the performance of his or her official duties.

Committee note: The access permitted under section (a) of this Rule is limited to that necessary to the performance of official duties. A judicial official or employee who desires access for personal reasons, such as to file submissions as a self-represented litigant, must become a registered user and proceed as such.

(b) Revocation

Upon notice that a judge, judicial appointee, clerk, or judicial personnel has retired, resigned, or otherwise left office and, as a result, is no longer entitled to access the MDEC System under this Rule, the State Court Administrator shall revoke the individual's username and password, terminate the right of access allowed thereby, and inform the judge, judicial appointee, clerk or judicial personnel of the right to apply for user registration under Rule 20-104.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

Rule 20-106. WHEN ELECTRONIC FILING REQUIRED; EXCEPTIONS

(a) Filers - Generally

(1) Attorneys

Except as otherwise provided in section (b) of this Rule, an attorney who enters an appearance in an affected action shall file electronically the attorney's entry of appearance and all subsequent submissions in the affected action.

(2) Judges, Judicial Appointees, Clerks, and Judicial Personnel

Except as otherwise provided in section (b) of this Rule, judges, judicial appointees, clerks, and judicial personnel, shall file electronically all submissions in an affected action.

(3) Self-represented Litigants

(A) Except as otherwise provided in section (b) of this Rule, a self-represented litigant in an affected action who is a registered user shall file electronically all submissions in the affected action.

(B) A self-represented litigant in an affected action who is not a registered user may not file submissions electronically.

(4) Other Persons

Except as otherwise provided in the Rules in this Title,

a registered user who is required or permitted to file a submission in an affected action shall file the submission electronically. A person who is not a registered user shall file a submission in paper form.

Committee note: Examples of persons included under subsection (a) (4) of this Rule are government agencies or other persons who are not parties to the affected action but are required or permitted by law or court order to file a record, report, or other submission with the court in the action and a person filing a motion to intervene in an affected action.

(b) Exceptions

(1) MDEC System Outage

Registered users, judges, judicial appointees, clerks, and judicial personnel are excused from the requirement of filing submissions electronically during an MDEC system outage in accordance with Rule 20-501.

(2) Other Unexpected Event

If an unexpected event other than an MDEC system outage prevents a registered user, judge, judicial appointee, clerk, or judicial personnel from filing submissions electronically, the registered user, judge, judicial appointee, clerk, or judicial personnel may file submissions in paper form until the ability to file electronically is restored. With each submission filed in paper form, a registered user shall submit to the clerk an affidavit describing the event that prevents the registered user from filing the submission electronically and when, to the registered user's best knowledge, information, and belief, the ability to file electronically will be restored.

Committee note: This subsection is intended to apply to events such as an unexpected loss of power, a computer failure, or other unexpected event that prevents the filer from using the equipment necessary to effect an electronic filing.

(3) Other Good Cause

For other good cause shown, the administrative judge having direct administrative supervision over the court in which an affected action is pending may permit a registered user, on a temporary basis, to file submissions in paper form. Satisfactory proof that, due to circumstances beyond the registered user's control, the registered user is temporarily unable to file submissions electronically shall constitute good cause.

(c) Submissions

(1) Generally

Except as otherwise provided in subsection (c)(2) of this Rule, the requirement of electronic filing in section (a) applies to all submissions that are capable of being converted into electronic format and that, in electronic form, may be converted into a legible paper document.

(2) Exceptions

Except with court approval, the following submissions shall not be filed electronically:

(A) A single document comprising more than 300 pages;

Committee note: A single document comprising more than 300 pages may be submitted electronically by dividing the document into shorter segments.

(B) Oversized documents, such as blueprints, maps, and plats;

(C) Documents offered as evidence in open court at a trial or other judicial proceeding pursuant to Rule 20-402;

(D) An item that is impracticable to be filed electronically because of the item's physical characteristics; and

(E) Any other category of submissions that the State Court Administrator exempts from the requirement of electronic filing.

(3) Required Retention of Certain Original Documents

Original wills and codicils, property instruments that have been or are subject to being recorded, and original public records, such as birth certificates, that contain an official seal may be scanned and filed electronically so long as the original document is maintained by the filer pursuant to Rule 20-302.

Cross reference: See Rule 20-204, which requires a registered user to file a "Notice of Filing Tangible Item" under certain circumstances.

(d) Paper Submissions

(1) Review by Clerk; Scanning

(A) Except as provided in subsection (d) (1) (B) of this Rule, upon receipt of a submission in paper form, the clerk shall review the submission for compliance with Rule 20-201 (c), (d), (e) (1) (B), and (h). If the submission is in compliance, the clerk shall scan it into the MDEC system, verify that the electronic version of the submission is legible, and docket the submission. If the submission is not in compliance, the clerk shall decline to scan it and promptly notify the filer in person

or by first class mail that the submission was rejected and the reason for the rejection.

Committee note: The clerk's pre-scanning review is a ministerial function, limited to ascertaining whether any required fee has been paid (Rule 20-201 (h)) and the presence of the filer's signature (Rule 20-201 (c)); a certificate of service if one is required (Rule 20-201 (d)); and a certificate as to the absence or redaction of restricted information (Rule 20-201 (e) (1) (B)).

(B) Upon receipt of a submission in paper form that is required by the Rules in this Title to be filed electronically, the clerk shall (i) decline to scan the submission, (ii) notify the filer electronically that the submission was rejected because it was required to be filed electronically, and (iii) enter on the docket that the submission was received and that it was not entered into the MDEC system because of non-compliance with Rule 20-106. The filer may seek review of the clerk's action by filing a motion with the administrative judge having direct administrative supervision over the court.

Committee note: Subsection (d) (1) (B) of this Rule is necessary to enforce the electronic filing requirement of Rule 20-106. It is intended to be used only when it is clear that the filer is a registered user who is required to file submissions electronically and that none of the exceptions in sections (b) or (c) of this Rule appear to be applicable.

(2) Destruction of Paper Submission

Subject to subsections (d) (3) and (e) (2) of this Rule, the clerk may destroy a paper submission after scanning it and verifying the legibility of the electronic version of it.

(3) Optional Return of Paper Document

The State Court Administrator may approve procedures for identifying and, where feasible, returning paper documents that

must be preserved in their original form.

(4) Public Notice

Prior to the date specified in Rule 20-102 (a) (1) (A), the State Court Administrator shall provide public notice alerting the public to the procedure set forth in subsections (d) (1), (2), and (3) of this Rule.

Committee note: If submissions properly filed in paper form are to be destroyed by the clerk following their being scanned into MDEC, the public must be given reasonable notice of that policy. Notice may be given in a variety of ways, including on the Judiciary website, on on-line and pre-printed forms prepared by the Judiciary, on summonses or other notices issued by the clerks, and by postings in the clerks' offices.

(e) Exhibits and Other Documents Offered in Open Court

(1) Generally

Unless otherwise approved by the court, a document offered into evidence or otherwise for inclusion in the record in open court shall be offered in paper form. If the document is offered as an exhibit, it shall be appropriately marked.

Committee note: Examples of documents other than exhibits offered for inclusion in the record are written motions made in open court, proposed voir dire questions, proposed jury instructions, communications from a jury, and special verdict sheets.

(2) Scanning and Return of Document

As soon as practicable, the clerk shall scan the document into the MDEC system and, unless the court orders otherwise, return the document to the party who offered it at the conclusion of the proceeding. If immediate scanning is not feasible, the clerk shall scan the document as soon as practicable and notify the person who offered it when and where the document may be

retrieved.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

Rule 20-107. ELECTRONIC SIGNATURES

(a) Signature by Filer; Generally

Subject to sections (b), (c), (d), and (e) of this Rule, when a filer is required to sign a submission, the filer shall electronically sign the submission by inserting a (1) facsimile signature or (2) typographical signature. The filer shall insert the electronic signature above the filer's typed name, address, e-mail address, and telephone number. An electronic signature on an electronically filed submission constitutes and has the same force and effect as a signature required under Rule 1-311.

(b) Signature by Judge or Judicial Appointee

A judge or judicial appointee shall sign a submission electronically by (1) personally affixing the judge's or judicial appointee's digital signature or (2) hand-signing a paper version of the submission and scanning or directing an assistant to scan the hand-signed submission to convert the handwritten signature to a facsimile signature in preparation for electronic filing.

Cross reference: For delegation by an attorney, judge, or judicial appointee to file a signed submission, see Rule 20-108.

(c) Signature by Clerk

When a clerk is required to sign a submission electronically, the clerk's signature shall be a digital

signature or a facsimile signature.

(d) Multiple Signatures on a Single Document

When the signature of more than one person is required on a document, the filer shall (1) confirm that the content of the document is acceptable to all signers; (2) obtain the handwritten, facsimile, or digital signatures of all signers; and (3) file the document electronically, indicating the signers in the same manner as the filer's signature. Filers other than judges, judicial appointees, clerks, and judicial personnel shall retain the signed document until the action is concluded.

(e) Signature Under Oath, Affirmation, or With Verification

When a person is required to sign a document under oath, affirmation, or with verification, the signer shall hand-sign the document. The filer shall scan the hand-signed document, converting the signer's handwritten signature to a facsimile signature, and file the scanned document electronically. The filer shall retain the original hand-signed document until the action is concluded or for such longer period ordered by the court. At any time prior to the conclusion of the action, the court may order the filer to produce the original hand-signed document.

(f) Verified Submissions

When a submission is verified or attaches a document under oath, the electronic signature of the filer constitutes a certification by the filer that (1) the filer has read the entire document; (2) the filer has not altered, or authorized the

alteration of, the text of the verified material; and (3) the filer has either personally filed the submission or has authorized a designated assistant to file the submission on the filer's behalf pursuant to Rule 20-108.

Cross reference: For the definition of "hand-signed," see Rule 20-101.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

Rule 20-108. DELEGATION OF AUTHORITY TO FILE

(a) Attorneys

After a submission has been signed in accordance with Rule 20-107, an attorney may authorize a paralegal, assistant, or other staff member in the attorney's office to file the signed submission electronically on behalf of the attorney. A submission filed pursuant to this delegation constitutes a filing by the attorney and the attorney's assurance that the attorney has complied with the requirements of Rule 1-311 (b) and has authorized the paralegal, assistant, or staff member to file the submission. The attorney is responsible for assuring that there is no unauthorized use of the attorney's username or password.

Cross reference: See Rule 2-311 (b) for the effect of signing pleadings and other papers.

(b) Judges and Judicial Appointees

After a submission has been signed electronically in accordance with Rule 20-107, a judge or judicial appointee may authorize a secretary, administrative assistant, or law clerk to file the signed submission electronically on behalf of the judge or judicial appointee. The judge or judicial appointee who signs the submission is responsible for assuring that there is no unauthorized use of the signer's username and password.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 - GENERAL PROVISIONS

Rule 20-109. ACCESS TO ELECTRONIC COURT RECORDS

(a) Generally

Except as otherwise provided in this Rule, access to court records in an affected action is governed by the Rules in Title 16, Chapter 1000.

(b) Parties and Attorneys of Record

Subject to any protective order issued by the court, parties to and attorneys of record in an affected action shall have full access, including remote access, to all case records in that affected action.

(c) Judges and Judicial Appointees

Judges and judicial appointees shall have full access, including remote access, to all court records to the extent that such access is necessary to the performance of their official duties. The Chief Judge of the Court of Appeals, by Administrative Order, may further define the scope of remote access by judges and judicial appointees.

(d) Clerks and Judicial Personnel

Clerks and judicial personnel shall have full access from their respective work stations to all court records to the extent such access is necessary to the performance of their official

duties. The State Court Administrator, by written directive, may further define the scope of such access by clerks and judicial personnel.

(e) Public Access

(1) Names of Litigants and Docket Entries

Members of the public shall have free access, including remote access, to unshielded information made available pursuant to Rule 16-1008 (a) (4).

(2) Unshielded Documents

Subject to any protective order issued by the court, members of the public shall have free access to unshielded case records and unshielded parts of case records from computer terminals that the court makes available for that purpose. Each clerk's office shall provide a reasonable number of terminals for use by the public. The terminals shall not permit the user to download, alter, or forward the information, but the user is entitled to a copy of or printout of a case record in accordance with Rules 16-1002 (d) (4) and 16-1003.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 200 - FILING AND SERVICE

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MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 200 - FILING AND SERVICE

Rule 20-201. REQUIREMENTS FOR ELECTRONIC FILING

(a) Authorization to File

A person may not file a submission in an affected action unless authorized by law to do so.

(b) Policies of State Court Administrator

A filer shall comply with all published policies and procedures adopted by the State Court Administrator pursuant to Rule 20-103.

(c) Signature

If, under Rule 1-311, the signature of the filer is required, the submission shall be signed in accordance with Rule 20-107.

(d) Certificate of Service

(1) Generally

Other than an original pleading that is served by original process, each submission that is required to be served pursuant to Rule 20-205 (d) shall contain a certificate of service signed by the filer.

(2) Non-electronic Service

If service is not to be made electronically on one or more persons entitled to service, service on such persons shall

be made in accordance with the applicable procedures established by other Titles of the Maryland Rules, and the submission shall include a certificate of service that complies with Rule 1-323 as to those persons and states that all other persons, if any, entitled to service were served by the MDEC system.

(3) Electronic Service

If service is made electronically by the MDEC system on all persons entitled to service, the certificate shall so state.

(e) Restricted Information

(1) Generally

Except as provided in subsection (e) (2) of this Rule, a submission filed by a registered user (A) shall not contain any restricted information, and (B) shall contain a certificate by the filer that the submission does not contain any restricted information or, if it does contain restricted information, a redacted submission has been filed contemporaneously pursuant to subsection (e) (2) of this Rule.

(2) Where Restricted Information is Necessary

If the filer believes that restricted information is necessary to be included, the filer shall (A) state the reason and a legal basis for including the restricted information, and (B) file both an unredacted version of the document, noting prominently in the caption that the document is unredacted, and a redacted version of the document that excludes the restricted information, noting prominently in the caption that the document is redacted.

(f) Sealed Submissions

If the filer desires the submission to be under court seal, the submission shall (1) state prominently in the caption that the document is to be under seal, and (2) state whether there is already in effect a court order to seal the document and, if so, identify that order. If there is no such order, the submission shall include a motion and proposed order to seal the document.

(g) Proposed Orders

A proposed order to be signed by a judge or judicial appointee shall be in an editable text form specified by the State Court Administrator.

(h) Fee

A submission shall be accompanied, in a manner allowed by the published policies and procedures adopted by the State Court Administrator, by any fee required to be paid in connection with the filing.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 200 - FILING AND SERVICE

Rule 20-202. EFFECTIVE DATE OF FILING

The MDEC system shall record the date and time an electronically filed submission is received by the MDEC system. Subject to Rule 20-203, the date recorded shall be the effective date of filing and shall serve as the docket date of the submission filed.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 200 - FILING AND SERVICE

Rule 20-203. REVIEW BY CLERK; STRIKING OF SUBMISSION; DELINQUENCY NOTICE; CORRECTION; ENFORCEMENT

(a) Time and Scope of Review

As soon as practicable, the clerk shall review a submission, other than a submission filed by a judge or judicial appointee, for compliance with Rule 20-201 (c), (d), (e) (1) (B), and (h) and the published policies and procedures for acceptance established by the State Court Administrator. Until the submission is accepted by the clerk, it remains in the clerk's queue and shall not be docketed.

(b) Docketing

(1) Generally

The clerk shall promptly correct errors of non-compliance that apply to the form and language of the proposed docket entry for the submission. The docket entry as described by the filer and corrected by the clerk shall become the official docket entry for the submission.

(2) Submission Signed by Judge or Judicial Appointee

The clerk shall enter on the docket each judgment, order, or other submission signed by a judge or judicial appointee.

(3) Submission Generated by Clerk

The clerk shall enter each writ, notice, or other submission generated by the clerk into the MDEC system for docketing in the manner required by Rule 16-305.

(c) Striking of Certain Non-compliant Submissions

If, upon review pursuant to section (a) of this Rule, the clerk determines that a submission, other than a submission filed by a judge or judicial appointee, fails to comply with the requirements of Rule 20-201 (c), (d), or (e) (1) (B), the clerk shall (1) strike the submission, (2) notify the filer and all other parties of the striking and the reason for it, and (3) enter on the docket that the submission was received, that it was stricken for non-compliance with the applicable section of Rule 20-201 (c), (d), or (e) (1) (B), and that notice pursuant to this section was sent. The filer may seek review of the clerk's action by filing a motion with the administrative judge having direct administrative supervision over the court.

(d) Deficiency Notice

(1) Issuance of Notice

If, upon review, the clerk concludes that a submission is not subject to striking under section (c) of this Rule but materially violates a provision of the Rules in Title 20 or an applicable published policy or procedure established by the State Court Administrator, the clerk shall send to the filer with a copy to the other parties a deficiency notice describing the nature of the violation.

(2) Correction; Enforcement

If the deficiency is not corrected within two business days after the date of the notice, any party may move to strike the submission.

(e) Restricted Information

(1) Shielding Upon Issuance of Deficiency Notice

If, after filing, a submission is found to contain restricted information, the clerk shall issue a deficiency notice pursuant to section (d) of this Rule and shall shield the submission from public access until the deficiency is corrected.

(2) Shielding of Unredacted Version of Submission

If, pursuant to Rule 20-201 (e) (2), a filer has filed electronically a redacted and an unredacted submission, the clerk shall docket both submissions and shield the unredacted submission from public access. Any party and any person who is the subject of the restricted information contained in the unredacted submission may file a motion to strike the unredacted submission. Upon the filing of a motion and any timely answer, the court shall enter an appropriate order.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 200 - FILING AND SERVICE

Rule 20-204. NOTICE OF FILING TANGIBLE ITEM

No later than the next business day after a registered user files a tangible item in an affected action, the registered user shall file a "Notice of Filing Tangible Item" that describes the tangible item, identifies the electronically filed submission to which the tangible item is attached, and states why the tangible item could not have been filed electronically.

Cross reference: See Rule 20-106 (c)(2) for documents that shall not be filed electronically.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 200 - FILING AND SERVICE

Rule 20-205. SERVICE

(a) Original Process

Service of original process shall be made in accordance with the applicable procedures established by the other Titles of the Maryland Rules.

(b) Subpoenas

Service of a subpoena shall be made in accordance with the applicable procedures established by the other Titles of the Maryland Rules.

(c) Court Orders and Communications

The clerk is responsible for serving writs, notices, official communications, court orders, and other dispositions, in the manner set forth in Rule 1-321, on persons entitled to receive service of the submission who (A) are not registered users, (B) are registered users but have not entered an appearance in the affected action, and (C) are persons entitled to receive service of copies of tangible items that are in paper form.

(d) Other Electronically Filed Submissions

(1) On the effective date of filing, the MDEC system shall electronically serve on registered users entitled to service all other submissions filed electronically.

Cross reference: For the effective date of filing, see Rule 20-202.

(2) The filer is responsible for serving, in the manner set forth in Rule 1-321, persons entitled to receive service of the submission who (A) are not registered users, (B) are registered users but have not entered an appearance in the action, or (C) are persons entitled to receive service of copies of tangible items that are in paper form.

Committee note: Rule 1-203 (c), which adds three days to certain prescribed periods after service by mail, does not apply when service is made by the MDEC system.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 200 - FILING AND SERVICE

Rule 20-206. NOTICE OF FILING OF DISCOVERY MATERIAL

At the option of the filer, discovery material may be filed electronically as a "service only" transaction, which accompanies the filing of the notice required by Rule 2-401 (d), 3-401 (b) (2), or 4-263 (k) or is in compliance with the disclosure requirements of Rule 4-262. The MDEC system shall not accept the filing of the discovery material itself but shall facilitate electronic service of the discovery material to those registered users who are entitled to receive service electronically. The notice of service shall indicate who received the discovery material electronically and who received the discovery material by alternate means of service.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE
TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT
CHAPTER 300 - OFFICIAL RECORD

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Rule 20-301. CONTENT OF OFFICIAL RECORD

- (a) Generally
- (b) Hyperlinks

Rule 20-302. DUTY TO RETAIN RECORDS

- (a) Generally
- (b) Redacted Documents

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 300 - OFFICIAL RECORD

Rule 20-301. CONTENT OF OFFICIAL RECORD

(a) Generally

The official record of an affected action consists of:

(1) the electronic version of all submissions filed electronically or filed in paper form and scanned into the MDEC system;

(2) all other submissions and tangible items filed in the action that exist only in non-electronic form;

(3) the electronic version of all documents offered or admitted into evidence or for inclusion in the record at any judicial proceeding, pursuant to Rule 20-106 (e);

(4) all tangible items offered or admitted into evidence that could not be filed electronically or scanned into the MDEC system;

(5) a transcript of all court recordings of proceedings in the affected action; and

(6) all other documents or items that, for good cause, the court orders be part of the record.

(b) Hyperlinks

A hyperlink embedded in a submission is not a part of the official record unless it is linked to another document that is a part of the official record.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 300 - OFFICIAL RECORD

Rule 20-302. DUTY TO RETAIN RECORDS

(a) Generally

A person who files (1) an affidavit or other submission that is required to be filed under oath, (2) a document filed electronically pursuant to Rule 20-106 (c) (3), or (3) any other document required by the court to be preserved shall retain the original document containing the original signature of each affiant until the case is concluded or for such longer period of time that is required by court order or applicable law.

(b) Redacted Documents

A filer who submits a redacted document shall retain the unredacted version of the document until the case is concluded or for such longer period of time that is required by court order or applicable law.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 400 - APPELLATE REVIEW

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Rule 20-401. APPLICABILITY

Rule 20-402. TRANSMITTAL OF RECORD

Rule 20-403. RECORD EXTRACT OR APPENDIX

- (a) Electronic Filing Required
- (b) Paper Copies Required from Persons Who File Electronically
- (c) Service
- (d) Record Extract or Appendix Filed by a Person Other than a Registered User

Rule 20-404. BRIEFS

- (a) Electronic Filing Required
- (b) Paper Copies Required from Persons Who File Electronically
- (c) Service
- (d) Brief Filed by a Person Other than a Registered User

Rule 20-405. OTHER SUBMISSIONS

- (a) Applicability
- (b) Electronic Filing
- (c) Paper Copies Required from Persons Who File Electronically
- (d) Service of Submissions Filed Electronically
- (e) Persons Who Do Not File Electronically

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 400 - APPELLATE REVIEW

Rule 20-401. APPLICABILITY

This Chapter applies to proceedings in an appellate court.

Cross reference: See Rule 20-102 (b).

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 400 - APPELLATE REVIEW

Rule 20-402. TRANSMITTAL OF RECORD

The clerk of the lower court shall transmit in an electronic format that portion of the record filed electronically.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 400 - APPELLATE REVIEW

Rule 20-403. RECORD EXTRACT OR APPENDIX

(a) Electronic Filing Required

The registered user responsible for the preparation of a record extract or appendix shall cause all portions of the document to be filed electronically unless otherwise ordered by the court. For a record extract in excess of 300 pages, the extract shall be filed in separate volumes not exceeding 300 pages each.

(b) Paper Copies Required from Persons Who File Electronically

In addition to the electronic filing, the party responsible for the preparation and filing of the record extract or appendix shall file eight copies of the document in paper form.

(c) Service

In addition to electronic service, the party responsible for the preparation and filing of the record extract or appendix shall serve two paper copies of the document on each party pursuant to the provisions of Rule 1-321.

(d) Record Extract or Appendix Filed by a Person Other than a Registered User

A person who is not required to file electronically and files a record extract or appendix in paper form shall file and serve the number of paper copies required by the Rules in Title 8

of these Rules.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 400 - APPELLATE REVIEW

Rule 20-404. BRIEFS

(a) Electronic Filing Required

All briefs filed by a registered user shall be filed electronically, unless otherwise ordered by the court.

(b) Paper Copies Required from Persons Who File Electronically

In addition to the electronic filing, the party filing a brief shall file eight copies of the brief in paper form.

(c) Service

In addition to electronic service, the party filing a brief shall serve two paper copies of the brief on each party pursuant to the provisions of Rule 1-321.

(d) Brief Filed by a Person Other than a Registered User

A person who is not required to file electronically and files a brief in paper form shall file and serve the number of paper copies required by Rule 8-502.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 400 - APPELLATE REVIEW

Rule 20-405. OTHER SUBMISSIONS

(a) Applicability

This Rule applies to a document filed in an appellate court that is not a brief, record extract, or appendix.

(b) Electronic Filing

Unless otherwise ordered by the Court, a submission by an attorney, a self-represented litigant who is a registered user, the Court, a judge of the Court, or a Clerk in an affected action shall be filed electronically.

(c) Paper Copies Required from Persons Who File Electronically

An attorney or self-represented litigant who files a submission electronically also shall file eight copies of the submission in paper form.

(d) Service of Submissions Filed Electronically

Service of an electronically filed submission shall be made in accordance with Rule 20-205 (d).

(e) Persons Who Do Not File Electronically

A person who is not required to file electronically and files a document in paper form shall file and serve the number of paper copies required by Title 8 of these Rules.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 500 - MISCELLANEOUS RULES

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Rule 20-501. MDEC SYSTEM OUTAGE

- (a) Posting of Notices
 - (1) System Failure Notice
 - (2) System Resumption Notice
- (b) Effect of Notice
 - (1) Electronic Submissions - Expiring Time Extended
 - (2) Paper Submissions - Accepted

Rule 20-502. REMOVAL TO AND REMAND FROM THE UNITED STATES DISTRICT COURT

- (a) Development of Plan
- (b) Contents of Plan

Rule 20-503. ARCHIVAL OF RECORDS

- (a) Development of Plan
- (b) Contents of Plan
- (c) Optional - Archives as Duplicate Repository

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 500 - MISCELLANEOUS RULES

Rule 20-501. MDEC SYSTEM OUTAGE

(a) Posting of Notices

(1) System Failure Notice

If a court in an applicable county is unable to accept electronic filings because of an MDEC system failure, the State Court Administrator shall immediately notify each registered user by posting a system failure notice on the Judiciary website or by other electronic means. The system failure notice shall state the date and time of the system failure and list the courts affected by the system failure.

(2) System Resumption Notice

When a court's capability of accepting electronically filed submissions resumes, the State Court Administrator shall immediately notify each registered user by posting a system resumption notice on the Judiciary website or by other electronic means. The system resumption notice shall state the date and time that the capability of accepting electronically filed submissions resumed in each court.

(b) Effect of Notice

(1) Electronic Submissions - Expiring Time Extended

While a court is listed in a system failure notice as unable to accept electronic filings, the affected court is deemed

inaccessible to electronic filers. If a court is inaccessible under this Rule for any portion of the same day that the time for filing a submission expires, the time to file the submission electronically is automatically extended until the first full day, other than a Saturday, Sunday, or legal holiday, that the system is able to accept electronic filings.

Cross reference: See Rule 1-203 (a).

(2) Paper Submissions - Accepted

If a court is listed as unable to accept electronic filings in a system failure notice but the courthouse is otherwise open for business, a registered user may elect to timely file the submission in paper form.

Cross reference: See Rule 20-106 (b) for exceptions to required electronic filing.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 500 - MISCELLANEOUS RULES

Rule 20-502. REMOVAL TO AND REMAND FROM THE UNITED STATES
DISTRICT COURT

(a) Development of Plan

The State Court Administrator shall enter into discussions with the United States District Court for the District of Maryland ("U.S. District Court") in an attempt to develop a plan for the transmission of electronic case records between the U.S. District Court and MDEC for cases on removal or remand between a Maryland State court and the U.S. District Court. Any plan recommended by the U.S. District Court and the State Court Administrator shall be presented to the Court of Appeals for approval. The plan shall not take effect until approved by (1) the U.S. District Court and (2) after a public hearing, the Court of Appeals.

(b) Contents of Plan

The plan shall provide for:

- (1) the manner and method of transmitting electronic records;
- (2) the format of the electronic records being transmitted;
- (3) the preservation of all applicable limitations on public access to the transmitted electronic records provided for by the Rules in Title 16, Chapter 1000 and Title 20 of these Rules until such time or times provided for in the plan or applicable federal

rules;

(4) the procedures for the expungement of records when ordered by a court in accordance with applicable expungement laws; and

(5) any other matters relevant to the transmission of electronic court records between the Maryland State Court and the U.S. District Court.

Committee note: An example of a matter that may be included in the plan is the manner of transmission of a question certified to the Court of Appeals pursuant to the Maryland Certification of Questions of Law Act and the Court's response to the certified question.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 20 - ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 500 - MISCELLANEOUS RULES

Rule 20-503. ARCHIVAL OF RECORDS

(a) Development of Plan

The State Court Administrator shall work with the State Archivist to develop a plan for the transmission of electronic case records to the Maryland State Archives for the purpose of archiving of those records. Any plan recommended by the State Archivist and the State Court Administrator shall be presented to the Court of Appeals for approval. The plan shall not take effect until approved by the Court of Appeals after a public hearing.

(b) Contents of Plan

The plan shall provide for:

(1) the entire lifecycle of the electronic record, including creation, use, destruction, and transfer to the Maryland State Archives;

(2) the Courts' records retention and disposition schedules to define the retention period of non-permanent records and the transfer of permanent electronic records to the Maryland State Archives;

(3) when electronic records may be transmitted to the Maryland State Archives;

(4) the categories or types of records to be transmitted or not to be transmitted;

(5) the format and manner of transmission and the format in which the records will be retained by the Maryland State Archives;

(6) the preservation of all limitations on public access to the transmitted electronic records provided for by the Rules in Title 16, Chapter 1000 and Title 20 of these Rules until such time or times provided for in the plan;

(7) a method by which MDEC can retrieve and modify records transmitted to the Maryland State Archives;

(8) procedures for the expungement of records transmitted to the Maryland State Archives when ordered by a court in accordance with applicable expungement laws;

(9) procedures to ensure that the electronic records are exported for transfer to the Maryland State Archives in non-proprietary (open-source) formats that constitute a complete and accurate representation of the record as defined by the Court; and

(10) any other matters relevant to the transmission and archiving of court records, including the tracking, verification, and authentication of transfers.

(c) Optional - Archives as Duplicate Repository

The plan may provide for immediate transmission of electronically filed case records in order that the Maryland State Archives constitute a duplicate repository of electronic court records.

Source: This Rule is new.

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

ADD new Rule 1-322.1, as follows:

Rule 1-322.1. EXCLUSION OF PERSONAL IDENTIFIER INFORMATION IN
COURT FILINGS

(a) Generally

Unless otherwise required by law or permitted by court order, the following personal identifier information shall not be included in any electronic or paper filing with a court:

(1) an individual's Social Security number, taxpayer identification number, or date of birth; or

(2) the numeric or alphabetic characters of a financial or medical account identifier.

(b) Exceptions

Unless otherwise provided by law or court order, section (a) does not apply to the following:

(1) a financial account identifier that identifies the property allegedly subject to forfeiture in a forfeiture proceeding;

(2) the record of an administrative agency proceeding;

(3) a court record filed prior to (effective date of the Rule), 2013.

(c) Alternatives

If, by reason of the nature of the action, it is necessary to include in a filing personal identifier information described in section (a), the filer may:

(1) include in the filing only the last four digits of the Social Security or taxpayer identification number, the year of the individual's birth, or the last four characters of the financial or medical account identifier, unless that identifier consists of fewer than eight characters, in which event all characters shall be redacted;

Committee note: Financial accounts include credit and debit card accounts, bank accounts, brokerage accounts, insurance policies, and annuity contracts. PIN numbers or other account passwords also may need to be redacted, as well as health information identifiers.

(2) file the unredacted document under seal, if permitted by order of court;

(3) if the full information is required to be provided only to another party or to a court official, other than a judge or judicial appointee, provide the information separately to that party or official and file only a certificate that the information has been so provided;

Committee note: It may be necessary to provide personal identifier information to a court official, including a clerk, sheriff, or constable, in order for that official to send or serve notices, summonses, or other documents. Subsection (c)(2)(A) of this Rule is not intended to permit *ex parte* communications with a judge.

(4) if the full information is required to be in the filing and the filing is a paper filing, file the paper in duplicate, one copy with the information redacted as required by section (a) of

this Rule and one copy without redaction, together with instructions to the clerk to shield the unredacted copy in conformance with the Rules in Title 16, Chapter 1000; or

(5) if the full information is required to be in the filing and the filing is electronic, designate, in conformance with the applicable electronic filing requirements, the information to be redacted or shielded for purposes of public access.

Cross reference: See Rule 20-201.

(d) Protective Orders

For good cause, the court may, by order, in a case:

(1) require redaction of additional information; and

(2) limit or prohibit a nonparty's remote electronic access to a document filed with the court.

Committee note: Other than remote access to docket entries, nonparties currently do not have remote access to documents filed with the court, except under certain limited circumstances, such as in asbestos-related litigation.

(e) Non-conforming Documents

(1) Waiver

A person waives the protection of section (a) of this Rule as to the person's own information by filing it without redaction and not under seal.

(2) Sanctions

If a person fails to comply with this Rule, the court on motion of a party or on its own initiative, may enter any appropriate order.

Committee note: This Rule does not affect the discoverability of personal information.

Source: This Rule is in part derived from Fed. R. Civ. P. 5.2 (2007) and is in part new.

MARYLAND RULES OF PROCEDURE
TITLE 1 - GENERAL PROVISIONS
CHAPTER 100 - APPLICABILITY AND CITATION

AMEND Rule 1-101 to provide for the applicability of Title 20, as follows:

Rule 1-101. APPLICABILITY

(a) Title 1

Title 1 applies to all matters in all courts of this State, except the Orphans' Courts and except as otherwise specifically provided.

(b) Title 2

Title 2 applies to civil matters in the circuit courts, except for Juvenile Causes under Title 11 of these Rules and except as otherwise specifically provided or necessarily implied.

(c) Title 3

Title 3 applies to civil matters in the District Court, except as otherwise specifically provided or necessarily implied.

(d) Title 4

Title 4 applies to criminal matters; post conviction procedures; and expungement of records in the District Court and the circuit courts, including records of civil offenses or infractions, except juvenile offenses, under a State or local law enacted as a substitute for a criminal charge.

(e) Title 5

Title 5 applies to all actions in the courts of this State, except as otherwise provided by statute or rule.

(f) Title 6

Title 6 applies to matters in the Orphans' Courts and before the registers of wills relating to the settlement of decedents' estates.

(g) Title 7

Title 7 applies to appellate and other judicial review in the circuit courts.

(h) Title 8

Title 8 applies to appellate review in the Court of Appeals and the Court of Special Appeals.

(i) Title 9

Title 9 applies to proceedings under Code, Family Law Article, Title 5, Subtitles 3 (Guardianship to and Adoption through Local Department), 3A (Private Agency Guardianship and Adoption), and 3B (Independent Adoption) and proceedings relating to divorce, annulment, alimony, child support, and child custody and visitation.

(j) Title 10

Title 10 applies to fiduciary matters in the courts of this State, except for matters relating to the settlement of decedents' estates governed by Title 6 of these Rules and guardianships governed by Title 9 of these Rules.

(k) Title 11

Title 11 applies to juvenile causes under Code, Courts

Article, Title 3, Subtitles 8 and 8A.

(l) Title 12

Title 12 applies to property actions relating to writs of survey, lis pendens, actions for release of lien instruments, condemnation, mechanics' liens, partition, redemption of ground rents, replevin, and detinue.

(m) Title 13

Title 13 applies to proceedings relating to estates of assignees and receivers.

(n) Title 14

Title 14 applies to proceedings relating to sales of property.

(o) Title 15

Title 15 applies to special proceedings relating to arbitration, catastrophic health emergencies, contempt, habeas corpus, health claims arbitration, injunctions, judicial releases of individuals confined for mental disorders, mandamus, the Maryland Automobile Insurance Fund, name changes, and wrongful death.

(p) Title 16

Title 16 applies to the courts, judges, and attorneys.

(q) Title 17

Title 17 applies to alternative dispute resolution proceedings in civil actions in a circuit court, except for actions or orders to enforce a contractual agreement to submit a dispute to alternative dispute resolution.

(r) Title 18 [Reserved]

(s) Title 19 [Reserved]

(t) Title 20

Title 20 applies to electronic filing and case management in the trial and appellate courts of this State as specified in Rule 20-102.

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

AMEND Rule 1-322 (a) to allow direct electronic transmissions pursuant to the Rules in Title 20, as follows:

Rule 1-322. FILING OF PLEADINGS AND OTHER ITEMS

(a) Generally

The filing of pleadings and other items with the court shall be made by filing them with the clerk of the court, except that a judge of that court may accept the filing, in which event the judge shall note on the item the filing date and then forthwith transmit the item to the office of the clerk. No item may be filed directly by electronic transmission, except (1) pursuant to an electronic filing system approved under Rule 16-307 or 16-506, (2) as permitted by Rule 14-209.1, ~~or~~ (3) as provided in section (b) of this Rule, or (4) pursuant to Title 20 of these Rules.

(b) Electronic Transmission of Mandates of the U.S. Supreme Court

A Maryland court shall accept a mandate of the Supreme Court of the United States transmitted by electronic means unless the court does not have the technology to receive it in the form transmitted, in which event the clerk shall promptly so inform the Clerk of the Supreme Court and request an alternative method of

transmission. The clerk of the Maryland court may request reasonable verification of the authenticity of a mandate transmitted by electronic means.

(c) Photocopies; Facsimile Copies

A photocopy or facsimile copy of a pleading or paper, once filed with the court, shall be treated as an original for all court purposes. The attorney or party filing the copy shall retain the original from which the filed copy was made for production to the court upon the request of the court or any party.

Cross reference: See Rule 1-301 (d), requiring that court papers be legible and of permanent quality.

Source: This Rule is derived in part from the 1980 version of Fed. R. Civ. P. 5 (e) and Rule 102 1 d of the Rules of the United States District Court for the District of Maryland and is in part new.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 700 - DISCIPLINE AND INACTIVE STATUS OF ATTORNEYS

AMEND Rule 16-723 (e) to require the Clerk of the Court of Appeals to send certain notices to the State Court Administrator, as follows:

Rule 16-723. CONFIDENTIALITY

. . .

(e) Required Disclosure by the Clerk of the Court of Appeals

If an attorney resigns or is reprimanded, convicted of a serious crime, or, by order of the Court of Appeals, disbarred, suspended, reinstated, or transferred to inactive status, the Clerk of the Court of Appeals of Maryland shall notify the National Lawyer Regulatory Data Bank of the American Bar Association and the disciplinary authority of every other jurisdiction in which the attorney is admitted to practice. In addition, the Clerk shall notify the State Court Administrator of each order of the Court by which an attorney is disbarred, suspended, reinstated, or transferred to inactive status.

. . .

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

AMEND Rule 16-811 f. to require the Clerk of the Court of Appeals to send certain notices to the State Court Administrator, as follows:

Rule 16-811. CLIENT PROTECTION FUND OF THE BAR OF MARYLAND

. . .

f. Enforcement

. . .

7. Notices to Clerks and State Court Administrator

The Clerk of the Court of Appeals shall send a copy of each Temporary Suspension Order and order that terminates a temporary suspension and restores the lawyer to good standing entered pursuant to this Rule to the Clerk of the Court of Special Appeals, the clerk of each circuit court, the Chief Clerk of the District Court, ~~and~~ the Register of Wills for each county, and to the State Court Administrator.

. . .

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURT ADMINISTRATION
CHAPTER 1000 - ACCESS TO COURT RECORDS

AMEND Rule 16-1001 by adding the words "including docket entries" to subsection (c)(1)(A) and by adding to section (k) language pertaining to a case record in electronic form, as follows:

Rule 16-1001. DEFINITIONS

. . .

(c) Case Record

(1) Except as otherwise provided in this Rule, "case record" means:

(A) a document, information, or other thing that is collected, received, or maintained by a court in connection with one or more specific judicial actions or proceedings including docket entries;

. . .

(k) Remote Access

"Remote access" means the ability to inspect, search, or copy a court record by electronic means from a location other than the location where the record is stored. For purposes of this definition, a case record in electronic form is deemed to be stored in the office of the clerk of the court in which the case record was filed.

. . .

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURT ADMINISTRATION
CHAPTER 1000 - ACCESS TO COURT RECORDS

AMEND Rule 16-1002 by adding "in-person" to subsection
(b) (1), as follows:

Rule 16-1002. GENERAL POLICY

. . .

(b) Protection of Records

To protect court records and prevent unnecessary
interference with the official business and duties of the
custodian and other court personnel,

(1) a clerk is not required to permit in-person inspection of
a case record filed with the clerk for docketing in a judicial
action or a notice record filed for recording and indexing until
the document has been docketed or recorded and indexed; and

. . .

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURT ADMINISTRATION
CHAPTER 1000 - ACCESS TO COURT RECORDS

AMEND Rule 16-1004 by making a stylistic change to subsection (b) (2) (B), by adding a cross reference, and by adding to section (c) the words "except as otherwise required by law," as follows:

Rule 16-1004. ACCESS TO NOTICE, ADMINISTRATIVE, AND BUSINESS LICENSE RECORDS

. . .

(b) Administrative and Business License Records

(1) Except as otherwise provided by the Rules in this Chapter, the right to inspect administrative and business license records is governed by Code, State Government Article, §§10-611 through 10-626.

(2) (A) A custodian shall deny inspection of an administrative record used by the jury commissioner in the jury selection process, except (i) as a trial judge orders in connection with a challenge under Code, Courts Article, §§8-408 and 8-409; and (ii) as provided in (B) and (C) of this subsection.

(B) Upon request, a custodian shall, ~~upon request~~, disclose the names and zip codes of the sworn jurors contained on a jury list after the jury has been impaneled and sworn, unless otherwise ordered by the trial judge.

Cross reference: See Rule 4-312 (d).

. . .

(c) Personnel Records - Generally

Except as otherwise permitted by the Maryland Public Information Act or by this Rule, a custodian shall deny to a person other than the person who is the subject of the record inspection of the personnel records of an employee of the court or other judicial agency or of an individual who has applied for employment with the court or other judicial agency. Except as otherwise required by law, the following records or information are not subject to this exclusion and shall be open to inspection:

- (1) The full name of the individual;
- (2) The date of the application for employment and the position for which application was made;
- (3) The date employment commenced;
- (4) The name, location, and telephone number of the court or judicial agency to which the individual has been assigned;
- (5) The current and previous job titles and salaries of the individual during employment by the court or judicial agency;
- (6) The name of the individual's current supervisor;
- (7) The amount of monetary compensation paid to the individual by the court or judicial agency and a description of any health, insurance, or other fringe benefit that the individual is entitled to receive from the court or judicial agency;
- (8) Unless disclosure is prohibited by law, other information authorized by the individual to be released; and

(9) A record that has become a case record.

. . .

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURT ADMINISTRATION
CHAPTER 1000 - ACCESS TO COURT RECORDS

AMEND Rule 16-1006 by adding to subsection (f)(6) case records pertaining to certain criminal investigations by the Attorney General and by adding sections (m) and (n) requiring the shielding of certain documents, as follows:

Rule 16-1006. REQUIRED DENIAL OF INSPECTION - CERTAIN CATEGORIES OF CASE RECORDS

Except as otherwise provided by law, court order, or the Rules in this Chapter, the custodian shall deny inspection of:

. . .

(f) The following case records in criminal actions or proceedings:

. . .

(6) A case record pertaining to a criminal investigation by (A) a grand jury, (B) a State's Attorney pursuant to Code, Criminal Procedure Article, §15-108, ~~or~~ (C) the State Prosecutor pursuant to Code, Criminal Procedure Article, §14-110, or (D) the Attorney General when acting pursuant to Article V, §3 of the Maryland Constitution or other law.

Committee note: Although this Rule shields only case records pertaining to a criminal investigation, there may be other laws that shield other kinds of court records pertaining to such investigations. This Rule is not intended to affect the operation or effectiveness of any such other law.

. . .

(m) A document required to be shielded under Rule 20-203 (e) (1).

(n) An unredacted document filed pursuant to Rule 1-322.1 or
Rule 20-203 (e) (2).

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURT ADMINISTRATION
CHAPTER 1000 - ACCESS TO COURT RECORDS

AMEND Rule 16-1007 (d) by deleting a reference to a sex offender's or sexual predator's registration statement and by adding a reference to a case record containing information prohibited by Rule 1-322.1, as follows:

Rule 16-1007. REQUIRED DENIAL OF INSPECTION - SPECIFIC INFORMATION IN CASE RECORDS

Except as otherwise provided by law, the Rules in this Chapter, or court order, a custodian shall deny inspection of a case record or a part of a case record that would reveal:

(a) The name, address, telephone number, e-mail address, or place of employment of a person who reports the abuse of a vulnerable adult pursuant to Code, Family Law Article, §14-302.

(b) Except as provided in Code, State Government Article, §10-617 (e), the home address or telephone number of an employee of the State or a political subdivision of the State.

(c) Any part of the social security or Federal Identification Number of an individual, other than the last four digits.

(d) Information about a person who has received a copy of ~~a sex offender's or sexual predator's registration statement~~ a case record containing information prohibited by Rule 1-322.1.

Cross reference: See Rule 16-1009 (b) (2) concerning information shielded upon a request authorized by Code, Courts Article, Title

3, Subtitle 15 (peace orders) or Code, Family Law Article, Title
4, Subtitle 5 (domestic violence) and in criminal actions.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURT ADMINISTRATION
CHAPTER 1000 - ACCESS TO COURT RECORDS

AMEND Rule 16-1008 to add references to the Rules in Title 20, Rule 1-322.1, and federal law and to allow a certain notice to be given electronically, as follows:

Rule 16-1008. ELECTRONIC RECORDS AND RETRIEVAL

(a) In General

(1) Subject to the conditions stated in this Rule, a court record that is kept in electronic form is open to inspection to the same extent that the record would be open to inspection in paper form.

(2) Subject to the other provisions of this Rule, the Rules in Title 20, and any other law or any administrative order of the Chief Judge of the Court of Appeals, a custodian, court, or other judicial agency, for the purpose of providing public access to court records in electronic form, is authorized but not required:

(A) to convert paper court records into electronic court records;

(B) to create new electronic records, databases, programs, or computer systems;

(C) to provide computer terminals or other equipment for use by the public;

(D) to create the ability to inspect or copy court records

through remote access; or

(E) to convert, supplement, modify, or replace an existing electronic storage or retrieval system.

(3) (A) Subject to the other provisions of this Rule, a custodian may limit access to court records in electronic form to the manner, form, and program that the electronic system used by the custodian, without modification, is capable of providing. Subject to the Rules in Title 20, if a custodian, court, or other judicial agency converts paper court records into electronic court records or otherwise creates new electronic records, databases, or computer systems, it shall, to the extent practicable, design those records, databases, or systems to facilitate access to court records that are open to inspection under the Rules in this Chapter.

(B) (i) Subject to subsection (a) (3) (B) (ii) of this Rule and except for identifying information relating to law enforcement officers, other public officials or employees acting in their official capacity, and expert witnesses, a custodian shall prevent remote access to the name, address, telephone number, date of birth, e-mail address, and place of employment of a victim or nonparty witness in (1) a criminal action, (2) a juvenile delinquency action under Title 3, Subtitle 8A of the Courts Article, (3) an action under Title 4, Subtitle 5 of the Family Law Article (domestic violence), or (4) an action under Title 3, Subtitle 15 of the Courts Article (peace order).

(ii) A person who files or otherwise causes to be placed

in a court record identifying information relating to a witness shall give the custodian written or electronic notice whether the identifying information is not subject to remote access under Rule 1-322.1, Rule 20-201, or subsection (a) (3) (B) (i) of this Rule. Except as may be provided by federal law, in the absence of ~~written~~ such notice, a custodian is not liable for allowing remote access to the information.

(4) Subject to subsection (a) (3) (B) of this Rule and procedures and conditions established by administrative order of the Chief Judge of the Court of Appeals, a person may view and copy electronic court records that are open to inspection under the Rules in this Chapter:

(A) at computer terminals that a court or other judicial agency makes available for public use at the court or other judicial agency; or

(B) by remote access that the court or other judicial agency makes available through dial-up modem, web site access, or other technology.

(b) Current Programs Providing Electronic Access to Databases

Any electronic access to a database of court records that is provided by a court or other judicial agency and is in effect on October 1, 2004 may continue in effect, subject to review by the Technology Oversight Board for consistency with the Rules in this Chapter. After review, the Board may make or direct any changes that it concludes are necessary to make the electronic access consistent with the Rules in this Chapter.

(c) New Requests for Electronic Access to or Information from Databases

(1) A person who desires to obtain electronic access to or information from a database of court records to which electronic access is not then immediately and automatically available shall submit to the Office of Communications and Public Affairs a written application that describes the court records to which access is desired and the proposed method of achieving that access.

(2) The Office of Communications and Public Affairs shall review the application and may consult the Judicial Information Systems. Without undue delay and, unless impracticable, within 30 days after receipt of the application, the Office of Communications and Public Affairs shall take one of the following actions:

(A) The Office of Communications and Public Affairs shall approve the application if it determines that the application does not request access to court records not subject to inspection under the Rules in this Chapter or Title 20 and will not impose a significant fiscal, personnel, or operational burden on any court or judicial agency. The approval may be conditioned on the applicant's paying or reimbursing the court or agency for any additional expense that may be incurred in implementing the application.

(B) If the Office of Communications and Public Affairs is unable to make the findings provided for in subsection (c) (2) (A),

it shall inform the applicant and:

(i) deny the application;

(ii) offer to confer with the applicant about amendments to the application that would meet the concerns of the Office of Communications and Public Affairs; or

(iii) if the applicant requests, refer the application to the Technology Oversight Board for its review.

(C) If the application is referred to the Technology Oversight Board, the Board shall determine whether approval of the application would be likely to permit access to court records or information not subject to inspection under the Rules in this Chapter, create any undue burden on a court, other judicial agency, or the judicial system as a whole, or create undue disparity in the ability of other courts or judicial agencies to provide equivalent access to court records. In making those determinations, the Board shall consider, to the extent relevant:

(i) whether the data processing system, operational system, electronic filing system, or manual or electronic storage and retrieval system used by or planned for the court or judicial agency that maintains the records can currently provide the access requested in the manner requested and in conformance with Rules 16-1001 through 16-1007, and, if not, what changes or effort would be required to make those systems capable of providing that access;

(ii) any changes to the data processing, operational electronic filing, or storage or retrieval systems used by or

planned for other courts or judicial agencies in the State that would be required in order to avoid undue disparity in the ability of those courts or agencies to provide equivalent access to court records maintained by them;

(iii) any other fiscal, personnel, or operational impact of the proposed program on the court or judicial agency or on the State judicial system as a whole;

(iv) whether there is a substantial possibility that information retrieved through the program may be used for any fraudulent or other unlawful purpose or may result in the dissemination of inaccurate or misleading information concerning court records or individuals who are the subject of court records and, if so, whether there are any safeguards to prevent misuse of disseminated information and the dissemination of inaccurate or misleading information; and

(v) any other consideration that the Technology Oversight Board finds relevant.

(D) If, upon consideration of the factors set forth in subsection (c) (2) (C) of this Rule, the Technology Oversight Board concludes that the proposal would create (i) an undue fiscal, personnel, or operational burden on a court, other judicial agency, or the judicial system as a whole, or (ii) an undue disparity in the ability of other courts or judicial agencies to provide equivalent access to judicial records, the Board shall inform the Office of Communications and Public Affairs and the applicant in writing of its conclusions. The Office of

Communications and Public Affairs and the applicant may then discuss amendments to the application to meet the concerns of the Board, including changes in the scope or method of the requested access and arrangements to bear directly or reimburse the appropriate agency for any expense that may be incurred in providing the requested access and meeting other conditions that may be attached to approval of the application. The applicant may amend the application to reflect any agreed changes. The application, as amended, shall be submitted to the Technology Oversight Board for further consideration.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURT ADMINISTRATION
CHAPTER 1000 - ACCESS TO COURT RECORDS

AMEND Rule 16-1009 by adding references to the Rules in Title 20, as follows:

Rule 16-1009. COURT ORDER DENYING OR PERMITTING INSPECTION OF CASE RECORD

(a) Motion

(1) A party to an action in which a case record is filed, including a person who has been permitted to intervene as a party, and a person who is the subject of or is specifically identified in a case record may file a motion:

(A) to seal or otherwise limit inspection of a case record filed in that action that is not otherwise shielded from inspection under the Rules in this Chapter or Title 20; or

(B) to permit inspection of a case record filed in that action that is not otherwise subject to inspection under the Rules in this Chapter or Title 20.

(2) The motion shall be filed with the court in which the case record is filed and shall be served on:

(A) all parties to the action in which the case record is filed; and

(B) each identifiable person who is the subject of the case record.

(b) Shielding Upon Motion or Request

(1) Preliminary Shielding Upon Motion

Upon the filing of a motion to seal or otherwise limit inspection of a case record pursuant to section (a) of this Rule, the custodian shall deny inspection of the case record for a period not to exceed five business days, including the day the motion is filed, in order to allow the court an opportunity to determine whether a temporary order should issue.

(2) Shielding Upon Request

If a request to shield information in a case record is filed by or on behalf of a person entitled to request the shielding under Code, Courts Article, Title 3, Subtitle 15 (peace orders) or Code, Family Law Article, Title 4, Subtitle 5 (domestic violence), and the request is granted, or if a request to shield the address or telephone number of a victim, victim's representative, or witness is filed in a criminal action, and the request is granted, a custodian shall deny inspection of the shielded information. The shield remains in effect until terminated or modified by order of court. If the request is denied, the person seeking to shield information may file a motion under section (a) of this Rule.

Committee note: If a court or District Court Commissioner grants a request to shield information under subsection (b)(2) of this Rule, no adversary hearing is held unless a person seeking inspection of the shielded information files a motion under section (a) of this Rule.

(c) Temporary Order Precluding or Limiting Inspection

(1) The court shall consider a motion filed under this Rule on

an expedited basis.

(2) In conformance with the provisions of Rule 15-504 (Temporary Restraining Order), the court may enter a temporary order precluding or limiting inspection of a case record if it clearly appears from specific facts shown by affidavit or other statement under oath that (A) there is a substantial basis for believing that the case record is properly subject to an order precluding or limiting inspection, and (B) immediate, substantial, and irreparable harm will result to the person seeking the relief if temporary relief is not granted before a full adversary hearing can be held on the propriety of a final order precluding or limiting inspection.

(3) A court may not enter a temporary order permitting inspection of a case record that is not otherwise subject to inspection under the Rules in this Chapter in the absence of an opportunity for a full adversary hearing.

(d) Final Order

(1) After an opportunity for a full adversary hearing, the court shall enter a final order:

(A) precluding or limiting inspection of a case record that is not otherwise shielded from inspection under the Rules in this Chapter;

(B) permitting inspection, under such conditions and limitations as the court finds necessary, of a case record that is not otherwise subject to inspection under the Rules in this Chapter; or

(C) denying the motion.

(2) A final order shall include findings regarding the interest sought to be protected by the order.

(3) A final order that precludes or limits inspection of a case record shall be as narrow as practicable in scope and duration to effectuate the interest sought to be protected by the order.

(4) In determining whether to permit or deny inspection, the court shall consider:

(A) if the motion seeks to preclude or limit inspection of a case record that is otherwise subject to inspection under the Rules in this Chapter, whether a special and compelling reason exists to preclude or limit inspection of the particular case record; and

(B) if the motion seeks to permit inspection of a case record that is otherwise not subject to inspection under the Rules in this Chapter, whether a special and compelling reason exists to permit inspection.

(C) if the motion seeks to permit inspection of a case record that has been previously sealed by court order under subsection (d) (1) (A) of this Rule and the movant was not a party to the case when the order was entered, whether the order satisfies the standards set forth in subsections (d) (2), (3), and (4) (A) of this Rule.

(5) Unless the time is extended by the court on motion of a party and for good cause, the court shall enter a final order

within 30 days after a hearing was held or waived.

(e) Filing of Order

A copy of any preliminary or final order shall be filed in the action in which the case record in question was filed and shall be subject to public inspection.

(f) Non-exclusive Remedy

This Rule does not preclude a court from exercising its authority at any time to enter an order that seals or limits inspection of a case record or that makes a case record subject to inspection.

Source: This Rule is new.