Maryland Volunteer Lawyers Service

Presentation by Jennifer Haber

MVLS

MARYLAND VOLUNTEER LAWYERS SERVICE

What We Do

Maryland Volunteer Lawyers Service (MVLS) removes barriers to justice through free civil legal help, community engagement, and advocacy for equitable laws.

The Justice Gap

- In the United States, our legal aid system currently meets just 20% of the need for civil legal assistance.
- The remaining 80% of people, who can't afford a lawyer, are at a severe disadvantage in court.
- MVLS leverages the power of pro bono to help close the justice gap in Maryland.

- **Our vision** is for a fair legal system that is free of injustice and equitably serves underrepresented Marylanders.

Reducing Barriers Created by Structural Racism

- Many of the barriers MVLS clients face are the result of longstanding systems of structural racism.
- The high cost of legal services, combined with the racial wealth and opportunity gaps, limit the ability of many people of color to hire counsel or pursue civil cases.
- A lack of diversity on the bench means that lived experiences of marginalized groups are often not understood or represented.
- In the family law context, racial disparities persist throughout the family law system with courts making assumptions about people of color's legal knowledge, parenting abilities, and commitment to their children. While some judges and members of the court treat Black litigants and other people of color fairly, others in the court system exhibit implicit or explicit bias – making these biases a basis for their decisions.
- These are just some examples of barriers created by racism and systemic inequities.

What is Implicit bias?

- Implicit bias is defined as attitudes, stereotypes, or beliefs that we develop and hold in an unconscious manner, which influence our understanding, actions, and decisions without conscious awareness. These biases affect how we perceive people based on characteristics like race, gender, or age, often contradicting our explicit, conscious values. -NIH
- These rapid categorizations function as a form of cognitive efficiency, allowing the brain to process large amounts of information quickly and with minimal conscious effort.

-ABA Commission on Disability Rights

- Though our shorthand may be helpful in some situations, they also **can lead to discriminatory behaviors if we are not careful**.
- All of us have implicit biases to some degree. This does not necessarily mean we will act in an inappropriate or discriminatory manner, only that our first "blink" sends us certain information. - Malcolm Gladwell, *Blink*
- *Acknowledging and understanding this implicit response and its value and role is critical to informed decision-making and is particularly critical to those whose decisions must embody fairness and justice, such as Judges, lawyers, social workers, custody evaluators…*
    - (Jerry Kang, Implicit Bias: A Primer for Courts, prepared for the National Campaign to Ensure the Racial and Ethnic Fairness of America's State Courts, Aug. 2009.)

How Prejudiced Are You? Recognizing and Combating Unconscious Bias | Jennefer Witter | TEDxAlbany

Start at 6:10

Take the Harvard Implicit Association Test (IAT)

How might implicit bias impact the Court in a family law matter?

- What does a nuclear family look like?
- What do "Moms" and "Dads" look like?
- What do Courts think about people who use drugs? Are recovering drug users?
- Survivors of domestic violence?
- Perpetrators of domestic violence?
- People who avoid eye contact?
- Single mothers?
- Multigenerational families?
- A parent with lots of companion animals?
- A parent with CPS involvement?
- A pro se litigant wearing jeans?

Steps We Can All Take

***Uncover and acknowledge YOUR implicit biases.**

***Motivate to be impartial.**

- **Intergroup Contact**: Engaging meaningfully with individuals from different social groups can reduce stereotyping and support the formation of more positive associations. One-on-one interactions that involve listening and learning about others' experiences may be particularly effective.
- **Common Ground**: Identifying shared experiences or values with individuals from different groups may reduce perceived social distance and lessen reliance on categorical thinking.
- **Individuation**: Focusing on an individual's specific attributes—rather than assumptions about group membership—can reduce reliance on stereotypes. This includes attending to a person's characteristics, interests, and preferences. individual apart from their group.

Steps We Can All Take

- **Counter-stereotypes**: Exposing yourself or reflecting on individuals who contradict stereotypical expectations can help develop alternative associations. For example, learning about Justice Richard Bernstein, a blind Associate Justice of the Michigan Supreme Court, may challenge assumptions about disability and professional competence.
- **Perspective Taking**: Actively considering another person's experiences from their point of view may reduce reliance on automatic assumptions and increase understanding of how structural and social factors shape their experiences.
- **Deliberative Processing**: Slowing down decision-making to allow for more intentional reflection may reduce reliance on stereotypes, particularly in high-pressure or high-information environments where cognitive shortcuts are more likely to occur.

Steps We Can All Take

- **Education**: Participating in trainings and educational programs can increase awareness of implicit bias and its potential influence on judgment and decision-making.
- **Self-Monitoring**: Continuously self-monitoring may help identify when implicit biases are influencing your judgments, particularly when decisions deviate from objective criteria.
- **Accountability**: Establishing mechanisms of personal or institutional accountability may help ensure that implicit bias is recognized as relevant to decision-making outcomes, even when it operates outside conscious awareness.

- See: State of the Science: Implicit Bias Review 2017 (Cheryl Staats, Kelly Capatosto, Lena Tenney, and Sarah Mamo eds., Ohio State University, Kirwan Institute for the Study of Race and Ethnicity), Sarah Redfield (ed.), Enhancing Justice: Reducing Bias 16 (American Bar Association 2017) and Patrick S. Forscher et al., A Meta-Analysis of Procedures to Change Implicit Measures, 117(3) J. Personality & Soc. Psych. 522–559 (2019),

Of Critical Importance:

- While these strategies may help reduce the influence of implicit bias, research suggests they are most effective when combined with **structural and institutional changes.**
- Scholars emphasize that addressing implicit bias requires attention not only to individual awareness, but also to the systems and structures that shape and reinforce decision-making over time.

Slides 9-12:

Implicit Bias Guide

Implicit Biases & People with Disabilities

By: ABA Commission on Disability Rights

Good news: You CAN help!

- Some of the most effective methods for mitigating bias are actually part of good lawyering in family law. Present the court with a picture of your client's life within the context of their community and their family

Implicit Bias in Family Law: How it Presents and How You Can Mitigate It BY IMANI SHANNON & SUNITHA ANJILVEL

- Educate yourself about anticipated issues in your case relating to bias. When you have a client from a diverse or underrepresented background, learn what you can about where your client is coming from. Do you have preconceived assumptions about your client that you need to examine? Are you assuming things about your client without actual knowledge? Ask your client frank questions about their background and how their background informs their own perspective of their case.
- Educate the court about who your client is.
- Present the individual family structure of your client to the court. Educate the court about what family specifically means to your client and how they are engaged with family
- Present the relevant cultural context of your case. Be sensitive to issues of language, religion, and the belief systems that affect your case and your client.
- ***Learn about Trauma Informed Lawyering***

What is Trauma?

- A serious injury or shock to the body, as from violence or an accident.

- An emotional wound or shock that creates substantial, lasting damage to psychological development.

- An event or situation that causes great distress and disruption.

Trauma Informed information and slides courtesy of Jessica Emerson, Director of Human Trafficking Prevention Project partner of MVLS HTPP Partnership, Manager Heather Heiman

What Causes Trauma?

- **The most obvious examples:**
  - Exposure to violence - including physical abuse or sexual assault - accidents, natural disasters, etc.
- **What else can cause trauma?**
  - Discrimination based on internal characteristics – racism, sexism, transphobia, etc.
  - Living in or in proximity to poverty, systemic neglect/betrayal.
  - This includes exposure to the attorneys, law enforcement, social workers, and other social service staff!

Trauma Informed information and slides courtesy of Jessica Emerson, Director of Human Trafficking Prevention Project partner of MVLS HTPP Partnership, Manager Heather Heiman

What Can Trauma "Look Like" When Working with Clients?

Hypoarousal	Anxiety & Panic	Irritable/ Argumentative	Difficulty Concentrating
Depression/ Sadness	**Hypervigilance**	Intrusive Thoughts and/or Flashbacks	Compromised Memory and/or Decision-Making
Dissociation	Emotional Numbness/Mood Swings	**Self-Medication through Alcohol & Drug Use**	**Somatization**

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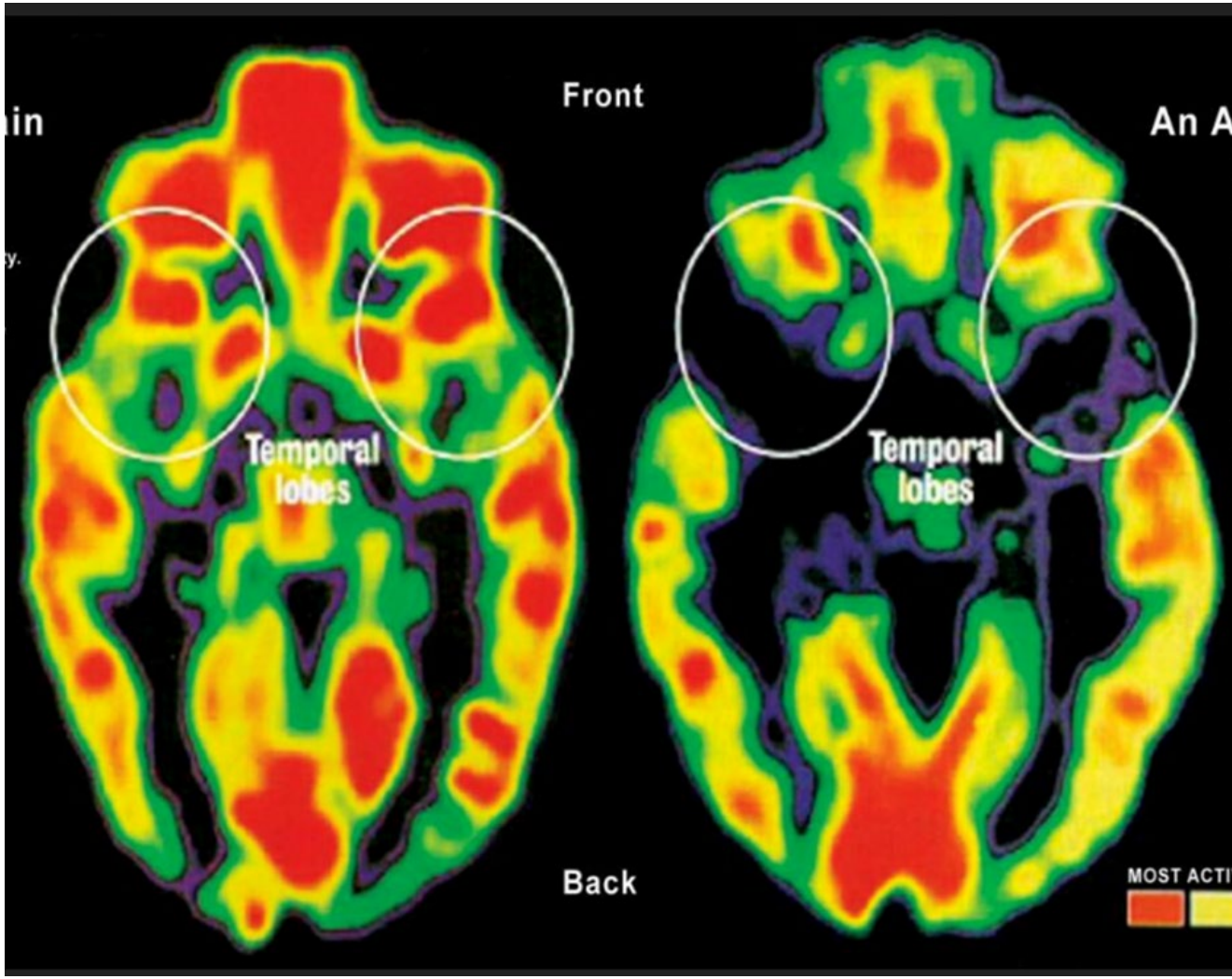
Trauma & Memory

- Trauma can damage the hippocampus, which is the area of the brain responsible for memory storage and retrieval.
- Traumatized brains may not process or store memories in the same way as non-traumatized brains.
- Accurate, consistent, linear memory recall is often a hallmark of believability in the legal system!



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Common Client Reactions to Trauma

- Return of/increase in active mental health symptoms
- Flat or labile affect
- Highly emotional, hostile, or angry
- Avoidance of appointments, court dates, etc.
- Forgetful of important details or dates
- Negative behaviors directed toward attorneys or social service providers
- Significant distrust of law enforcement, attorneys, or other social service providers
- Normalization of trauma and exploitation

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Common Reactions To People Who Have Experienced Trauma

- Labeled “treatment-resistant” or “difficult.”
- Assumption of untruthfulness and/or potentially re-offending
- Harsher punishments/sentences
- Seen only as a collection of symptoms rather than a person who is struggling

Trauma-Informed Lawyering Adjusts the Attorney-Client Relationship AND Bridges Critical Gaps in Understanding for Third Parties

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Trauma Informed Lawyering: Means asking "What happened to her/him?" vs. "What is wrong with her/him?" Rests upon recognition of characteristics intrinsic in all positive human relationships, including empathy, responsive listening, restraint from judgement, and demonstration of authentic care and concern for a client.

Transparency—Be fully transparent about your client's legal case in easy to understand terms. This promotes trust, minimizes feelings of powerlessness, and distinguishes you from past negative relationships.

Predictability—Repeatedly inform your client of what is to come, both in terms of individual meetings and the larger legal picture. This contributes to feelings of safety and decreases anxiety.

Client Control—Refers to the need to give clients a voice in decisions that affect them in a way that is purposeful, exceeds baseline ethical requirements, and supports your client's agency and empowerment.

Reliability—Always follow through on responsibilities, commitments, and appointments. Survivors of trauma often expect disappointment; this counteracts that expectation. Own up to mistakes frankly with your client.

Proactive Support—Anticipate issues that may be distressing or destabilizing to your client. Be familiar with mental health and social service referrals in your area so you can make them when needed.

Patience—Be aware that building connections takes time! Remain patient, present, and available for your client even when times are stressful.

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Trauma Informed Interviewing: Getting Ready

- Ensure the client has the information they need to get to your office or the space where you are meeting.
- Prepare your meeting space with client comfort and safety in mind.
- Upon arrival, check in regarding basic needs.
- During the meeting, be sensitive to how your client's memory may be impacted by trauma.

Trauma Informed Interviewing: Preparing For and Responding to Triggers

- Preparing for potential triggers: Explain in advance what will occur during your meeting and offer breaks throughout. Use open body language and be in tune with your own emotions.
- Be purposeful in how you ask questions: Keep questions open-ended (who, what, when, where, how), but don't ask the client why something happened. Provide introductory information or context to your questions so the client does not feel they are being blamed or judged for their actions or experiences.
- Notice/Validate the Survivor's Experiences and Feelings. Use active Listening for example, mirroring client statements: "So, after your landlord evicted you, you felt scared thinking about your family's future." Label feelings: "It sounds like that experience was really scary/painful/stressful for you."
- Responding to a client in crisis: Notice and validate your client's feelings and use active listening skills to respond to their experience. Reassure your client that trauma responses are perfectly normal; there is nothing "crazy" or "wrong" about how they are feeling. Next, ask what would help, and offer concrete options like a glass of water or leaving the room for a few minutes. Finally, help them get grounded in the present by asking them simple questions that re-direct their attention

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Trauma and Memory – Practice Tips

Remember that survivors of trauma may not tell their stories in a linear way

Use alternatives to a linear list – spokes on a wheel, thought map, etc.

Use locations as a grounding point, when you were in this state, this town, this job, etc.

Remember that despite some memories being "misfiled," the actual recall of the memories is accurate!

Use orienting dates and events to help organize memories - do PREP WORK with documents and evidence you have on hand.

If conflicting info is presented, highlight the need to sort through it as a part of the client having agency in helping organize the narrative, so they do not feel as if you think they are lying!

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Case Strategies for the Courtroom

Consider	Consider using social workers, mitigation specialists, and experts to help construct a client's story.
Address	Address common victim-blaming narratives.
Humanize	Humanize your client by allowing courtroom actors to see, hear, sense, and feel the client's traumatic experiences.
Help	Help courtroom actors understand that trauma has real, measurable neuropsychological consequences.
Educate	Educate that substance abuse is not a character flaw, but often an attempt to self-medicate trauma symptoms and other mental health concerns.

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Now that you have the tools…

- Stay active with MVLS, our clients need YOU!
- Commit to taking the steps to be conscious of your implicit bias.
- Think about how you can initiate systemic change where you work and live?
- Keep practicing your trauma informed techniques!
- Always reach out with questions!

FAMILY LAW TRIALS AND TRIAL PREP

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OVERVIEW

- Custody factors
- Child support
- Alimony
- Marital property
- Attorneys fees
- 9-207 Statement
- 9-204.2 Statement
- Stipulations
- Pretrial statements
- Opening and closing
- Direct & cross examination
- Leading questions
- Introducing documents
- Objections

Custody Factors - MD CODE, FAMILY LAW § 9-201

- Effective October 1, 2025
- Codifies best interest standard for legal and physical custody
- Subject to §§ 9-101, 9-101.1, 9101.2 (abuse, neglect, criminal presumption)
- Court must articulate findings on each factor considered (§ 9-201(b))
- Statute takes precedence; case law guides application

MAKE SURE TO READ:

- *Taylor v. Taylor*, 306 Md. 290 (Ct. of Appeals 1986)
- *Montgomery County v. Sanders*, 38 Md. App. 406 (Md. Ct. Spec. App. 1978)

FL § 9-201(a) FACTORS

- Stability and foreseeable health and welfare of the child
- Frequent, regular, and continuing parental contact
- How parents will share rights and responsibilities
- Child's relationships with parents, siblings, others
- Physical and emotional security; protection from conflict
- Developmental needs
- Day-to-day needs (education, culture, food, shelter, health)
- Placing child's needs above parents' needs

FL § 9-201(a) FACTORS

- Age of the child
- Military deployment of a parent
- Prior court orders or agreements
- Each parent's role and tasks
- Location of each parent's home
- Parents' relationship and communication
- Child's preference, if age -appropriate
- Any other factor the court considers appropriate

CUSTODY FACTORS & TRIAL

At trial:

- Identify the statutory factors most favorable to your client
- Anticipate the statutory factors that favor the other side
- Tie testimony and exhibits to specific factors
- Walk the court through each factor in closing
- Make findings easy for the court to organize

Child Support - MD CODE, FAMILY LAW

§§ 12-201 - 12-204

- Guidelines presumptively correct
- Mandatory up to $30,000 combined monthly income (eff. July 1, 2022)
- Above $30,000: discretionary; top of schedule is presumptive minimum
- Considers child's reasonable needs and parents' standard of living
- *Houser v. Houser*, 262 Md. App. 473, 319 A.3d 1186 (2024) - Parents cannot waive child support; Child support is a right of the child, not the parent; Unanimous parental agreement does not override; Court may order support sua sponte when custody is at issue

MULTIFAMILY ADJUSTMENT AND EXPANDED DEVIATION (Eff. Oct. 1, 2025)

Multifamily adjustment - § 12-201(c)(1)(iii); § 12-204(a)(3)

- Allowance for other children in parent's home with 92+ overnights
- Calculate basic obligation using only that parent's income, multiply by 0.75
- Deduct from actual income before running guidelines
- The court may decline to apply the adjustment if it finds doing so would be unjust or inappropriate
- The determination considers the best interest factors of the child who is the subject of the pending support order

Expanded § 12-202(a)(2) deviation factors

- Mortgage or college payments under prior agreements
- Direct payments for child (tuition, medical)
- Other dependents financially supported
- Whether order reduces income below 110% of federal poverty level
- To deviate, the court must make written or on -the-record findings stating: The amount of child support that would have been required under the guidelines; How the order varies from the guidelines; How the finding serves the best interest of the child; In cases involving items of value conveyed instead of a portion of the presumed support, the estimated value of those items

ALIMONY

TYPES OF ALIMONY:

- *Pendente lite* alimony under § 11-102, awarded during the pendency of the case
- Rehabilitative alimony, which is the preferred form under Maryland law, awarded for a defined period to allow the recipient to become self-supporting
- Indefinite alimony under § 11-106(c), awarded only when the recipient cannot reasonably be expected to become self-supporting, or when the respective standards of living will be unconscionably disparate

ALIMONY

ALIMONY FACTORS:

- Ability of the party seeking alimony to be wholly or partly self -supporting
- Time necessary to gain sufficient education or training
- Standard of living established during the marriage
- Duration of the marriage
- Contributions, monetary and nonmonetary, of each party to the well -being of the family
- Circumstances that contributed to the estrangement of the parties
- Age of each party
- Physical and mental condition of each party
- Ability of the party from whom alimony is sought to meet that party's own needs while meeting the needs of the party seeking alimony
- Any agreement between the parties
- Financial needs and financial resources of each party
- Whether the award would cause a spouse who is a resident of a care facility to become eligible for medical assistance earlier than otherwise

Under § 11-106(c), indefinite alimony may be awarded if the court finds that:

- Due to age, illness, infirmity, or disability, the party seeking alimony cannot reasonably be expected to make substantial progress toward becoming self -supporting; or
- Even after the party seeking alimony will have made as much progress as can reasonably be expected, the respective standards of living will be unconscionably disparate

MARITAL PROPERTY - MD CODE, FAMILY LAW §§ 8-201 - 8-213

- Maryland is equitable distribution, not community property >> Equitable DOES NOT mean equal
- **Three-step analysis:** 1) Identify - marital, non-marital, or partially marital; 2) Value - as of date of divorce; 3) Adjust - monetary award, transfer, or use and possession
- Pay attention to source of funds, comingling, and dissipation
- Valuation date =DATE OF DIVORCE (not separation)

MARITAL VERSUS NON-MARITAL PROPERTY

Marital Property (§ 8-201(e)):

- Property acquired during marriage
- Retirement assets, pensions, deferred compensation
- Appreciation of non-marital property attributable to marital effort
- Property titled jointly is presumptively marital

Non-Marital Property:

- Acquired before marriage
- Acquired by inheritance or third-party gift
- Excluded by valid agreement
- Property traceable to any of the above
- **The party claiming non-marital status bears the burden of tracing**

Monetary Award Factors under FL § 8-205(b)

- Contributions, monetary and nonmonetary, to the well-being of the family
- Value of all property interests of each party
- Economic circumstances of each party
- Circumstances contributing to estrangement
- Duration of the marriage
- Age of each party
- Physical and mental condition of each party
- How and when property was acquired
- Contribution of property to tenants-by-entirety property
- Any alimony award or family home / family use personal property provision
- Any other factor the court considers necessary or appropriate

Attorneys Fees in Family Law

- FL § 7-107 - Divorce, annulment, alimony
- FL § 8-214 - Marital property and monetary award
- FL § 11-110 - Alimony
- FL § 12-103 - Child support, custody, visitation
- FL § 1-202 - Court - appointed counsel for minor child
- Md. Rule 1 -341 - Bad faith / lack of substantial justification

Attorneys Fees in Family Law

Financial status of each party

Needs of each party

Substantial justification for bringing, maintaining, or defending

Maryland follows the American rule; family law fee shifting is statutory exception.

Attorneys Fees in Family Law

Reasonableness - MLRPC 19-301.5:

- Time and labor required
- Novelty and difficulty
- Customary fee in locality
- Results obtained

Practical:

- Submit itemized fee affidavit
- Document lack of substantial justification with specifics
- Rule 1-341 requires higher showing (bad faith)

HENRIQUEZ v. HENRIQUEZ, 413 Md. 287 (2010)

- § 12-103 permits fees when prevailing party received pro bono representation
- Award may be made directly to the legal services organization
- Word "incurred" does not appear in statute
- No per se bar to fees for pro bono representation

For pro bono volunteers:

- Request fees in family law cases
- Submit itemized affidavit at customary rate
- Award goes to organization, not individual attorney
- Same three -factor analysis applies

MD RULE 9-207 JOINT STATEMENT OF MARITAL PROPERTY

- Required in divorce, annulment, property disposition
- Filed at least 10 days before merits hearing
- Frames property issues for §§ 8-203, 8-204, 8-205 analysis

WHAT TO INCLUDE:

- Description of property (be specific)
- Title
- Fair market value
- Liens / encumbrances
- Net value
- Marital / non-marital / partially marital
- Source of non-marital claim (if applicable)

MD RULE 9-207 JOINT STATEMENT OF MARITAL PROPERTY

Commonly Included :

- Real property
- Bank, investment, retirement accounts
- Deferred compensation, stock options, RSUs
- Vehicles

Commonly Overlooked :

- Cash value of life insurance
- Crypto and digital assets
- Tax refunds ; bonuses ; commissions
- Frequent flyer miles, reward points
- Business interests and goodwill
- Jewelry, art, collectibles, firearms
- Marital debt

PRACTICAL TIP

When parties disagree: File single document with competing positions side by side; document good-faith efforts to confer.

MD RULE 9-204.2 JOINT STATEMENT CONCERNING CUSTODY AND ACCESS

- Required in custody and visitation actions
- Timing per local DCM and scheduling order
- Forces specific proposals; identifies real disagreement
- Provides usable document for court's order

WHAT TO INCLUDE:

- Legal custody (sole, joint, joint with tie-breaker; decision categories)
- Physical custody (with specific overnight count)
- Regular schedule (school year and summer)
- Holiday schedule
- School breaks and vacations
- Transportation and exchanges
- Communication during other parent's time
- Right of first refusal
- Dispute resolution process

MD RULE 9-204.2 JOINT STATEMENT CONCERNING CUSTODY AND ACCESS

COMMON STRATEGIES AND PITFALLS

Strategies:

- Specific times ("3:00 p.m. or school dismissal, whichever is earlier")
- Build around child's school calendar
- Address transitions in detail
- Plan for holidays, snow days, summer camps
- Tie schedule to overnight count claimed for child support
- Use defined terms ("school day," "non-school day")

Pitfalls:

- Vague proposals ("liberal and reasonable")
- Missing holiday schedule
- Overnight count inconsistent with support claim
- Ignoring practical logistics
- Parent-centric rather than child-centric

MD RULE 2 -504.2 JOINT PRE-TRIAL STATEMENT

- Sets contested and uncontested issues, witnesses, exhibits, relief
- Local DCM and scheduling order control deadlines and content

REQUIREDCONTENT:

- Case posture - Nature of case; procedural history; Uncontested / stipulated issues; Contested issues with each party's position; Estimated trial length
- Trial logistics - Witness list with expected testimony; Expert designations; Exhibit list with descriptions; Objections to opposing exhibits; Anticipated evidentiary issues; Specific requests for relief; Settlement posture

MD RULE 2 -504.2 JOINT PRE-TRIAL STATEMENT

COMMON STRATEGIES AND PITFALLS

Strategies:

- Build witness and exhibit lists throughout the case
- Use as your trial outline
- Coordinate with opposing counsel early
- Flag evidentiary disputes in advance
- Cross-reference Rule 9-207 and Rule 9-204.2
- Match witnesses and exhibits to issues

Pitfalls:

- Omitting a witness or exhibit
- Listing everything conceivable
- Recycling templates
- Missing the deadline
- Failing to confer
- Treating it as a formality

TRIAL STIPULATIONS

- Agreement that a fact, document, or issue is undisputed
- Entered in writing pretrial, on the record, or orally at trial
- Binding once entered
- Shortens trial; focuses court on contested issues

Common stipulations :

- Date and place of marriage; date of separation
- Names and DOB of children
- Residency for divorce
- Authenticity of documents
- Pendente lite orders in effect
- Identification of certain assets as marital / non-marital
- Income, debt, grounds in limited cases

TRIAL STIPULATIONS

Strategies:

- Use the pretrial statement as the starting point
- Propose stipulations on facts and exhibit authenticity in your draft
- Memorialize in pretrial statement, separate filing, or on the record

Pitfalls:

- Stipulate only to what is undisputed
- Once stipulated, the fact is established
- Cannot un-stipulate if testimony goes differently

COMMON STRATEGIES AND PITFALLS

OPENING & CLOSING STATEMENTS

Opening:

- Roadmap, not argument
- Previews evidence
- Frames case theory
- Identifies relief
- No argument or legal conclusions
- Often shortened in bench trials

Closing:

- Argument permitted and expected
- Ties evidence to legal standards
- Walks court through statutory factors
- Asks for specific relief
- Addresses weaknesses
- The advocacy moment in a bench trial

OPENING STATEMENTS

- Introduction with one - sentence case theory
- Parties and procedural posture
- Contested issues
- Preview of evidence
- Preview of witnesses
- Preview of relief

Example: "Your Honor, this is a custody case involving two minor children, ages 8 and 11. The evidence will show that since the parties' separation in March 2024, my client has been the children's primary caretaker. We will ask the court to award my client primary physical custody with a parenting schedule that gives the father every other weekend and one weeknight dinner."

CLOSING STATEMENTS

- Restate case theory
- Walk through each statutory factor with citations to testimony and exhibits
- Reference 9-207 and 9-204.2 ("As reflected in Plaintiff's column...")
- Address other side directly; do not ignore weaknesses
- Apply law to facts
- Make specific request for relief
- Hand the court a written proposed order

DIRECT & CROSS EXAMINATION

Direct Examination:

- Your witness telling your story
- Witness does most of the talking
- Open-ended questions
- No leading (with exceptions)
- Goal: develop favorable testimony
- Pace: slower

Cross Examination:

- Their witness; you control
- You do most of the talking
- Leading questions expected
- Closed-ended; suggest the answer
- Goal: extract concessions, impeach, limit damage
- Pace: faster; one fact per question

DIRECT EXAMINATION

- Start with foundation (who, relationship, competence)
- Open-ended questions
- Build chronologically
- Use transitions

EXAMPLES:

- Q: How are you related to the minor children?
- Q: Walk us through a typical school day for the children.
- Q: Who handles the children's medical appointments?
- Q: Describe how you and the father communicate about the children.

CROSS EXAMINATION

- One fact per question
- Lead with a tag ("correct?")
- Never ask what you do not know the answer to
- Know when to stop
- Pin with prior statements

EXAMPLES:

- Q: Your work hours are 8 a.m. to 6 p.m., Monday through Friday?
- Q: During work travel, the children stay with my client?
- Q: You have not attended a parent-teacher conference in two school years, correct?

LEADING & NON -LEADING QUESTIONS

Leading question:

- Suggests the answer
- Contains the answer
- Typically yes/no with a tag

Non-leading question:

- Open-ended
- Does not suggest an answer
- Begins with who, what, when, where, why, how

General rule: No leading on direct except as needed to develop testimony; permitted on cross.

EXCEPTIONS & HOSTILE WITNESSES

Leading permitted on direct:

- Preliminary / foundational matters
- Undisputed facts
- Hostile witnesses, adverse parties, witnesses identified with adverse party
- Witnesses with communication difficulty
- Refreshing recollection

Under Rule 5 -611(c), you may call the opposing party and examine with leading questions:

- Lock in concessions before your client testifies
- Build your case through the other side's admissions
- Control the narrative early
- Extract specific facts without elaboration

Introducing Documents

1. Mark for identification - "I would like to have this marked as Plaintiff's Exhibit 1 for identification."
2. Show to opposing counsel - "May the record reflect I am showing Exhibit 1 to opposing counsel."
3. Approach the witness - "Your Honor, may I approach the witness?"
4. Lay foundation (authentication + hearsay exception if needed) - "I am handing you what has been marked as Plaintiff's Exhibit 1. Do you recognize this document?"
5. Move into evidence - "Your Honor, I move Plaintiff's Exhibit 1 into evidence."

Introducing Documents

COMMON PITFALLS:

- Forgetting to move into evidence (marking is not enough)
- Publishing before foundation is laid
- Reading from the document before it is admitted
- Failing to anticipate hearsay
- Skipping "fair and accurate copy"
- Wrong witness for the document

Recovery: Ask the court for a moment; lay additional foundation

Introducing Documents

AUTHENTICATION - MD RULE 5-901

- Witness familiarity
- Author or recipient
- Distinctive characteristics
- Self-authentication (Rule 5-902): certified records, notarized documents
- Stipulation (often pre-arranged)

Sample foundation - bank statement:

1. Q: Do you recognize Exhibit 1?
2. Q: What is it?
3. Q: Whose account does it reflect?
4. Q: How do you know?
5. Q: Is it a fair and accurate copy of the statement you received?

Introducing Documents

HEARSAY EXCEPTIONS- MD RULE 5-803

- Business records - bank, medical, employer. etc. with proper records custodian certification
- Public records - deeds, court orders
- Party admissions - opposing party's texts, emails, social media
- Recorded recollection - transcript

Judicial notice - MD RULE 5-201

- Pendente lite orders, scheduling orders, consent orders
- Pleadings
- 9-207 and 9-204.2 statements
- Certified orders from other cases
- Example: "Your Honor, I ask the court to take judicial notice of the Pendente Lite Order entered June 15, 2024, at docket entry 23."

OBJECTIONS - MD RULE 2 -517

- Objection must be timely
- Maryland : party is not required to state grounds unless court asks
- General objection preserves the issue (differs from federal practice)
- Stating ground is strategically useful when the court asks

Sequence :

1. Say "Objection" promptly
2. State ground if the court asks
3. Brief argument if invited
4. Wait for ruling
5. If overruled, move on; do not argue; can rephrase
6. If sustained, question is upheld and can be answered

OBJECTIONS - MD RULE 2 -517

STRATEGIES

- Judges may disregard inadmissible evidence; pick your battles
- Object when the answer would genuinely harm your case
- Object to preserve appellate issues
- Do not object just because you can
- Object early in a pattern to shape opposing counsel's behavior

PITFALLS:

- Objecting after the answer (move to strike instead)
- Arguing with the court after a ruling
- Objecting to every minor issue
- Failing to object when it matters (waiver)
- Not listening to opposing counsel
- Not stating ground when court asks

SAMPLE PHRASING

- **Basic:** "Objection, hearsay."
- **With argument:** "Objection, Your Honor. The witness is being asked to testify to a statement by a third party who is not in court, offered for its truth."
- **Responding:** "Your Honor, this is not offered for its truth but for [effect on listener / state of mind]."
- **Continuing objection:** "Your Honor, may I have a continuing objection to this line of questioning?"
- **Motion to strike:** "Your Honor, I move to strike the witness's last answer as nonresponsive."

OBJECTIONS - MD RULE 2 -517

COMMON OBJECTIONS

Objection	When to Use
Hearsay	Out-of-court statement offered for truth
Leading	Direct question suggests the answer
Lack of foundation	Document or testimony without predicate
Relevance	Not related to contested issue
Speculation	Witness asked to guess
Lack of personal knowledge	No firsthand basis
Asked and answered	Repetition
Compound	Multiple questions in one
Argumentative	Rhetorical or harassing
Best evidence	Document itself is available
Privilege	Attorney-client, marital, therapist

QUESTIONS?