

Md. Rule 17-501

State and Federal Rules orders current through April 16, 2020.

MD - Maryland State & Federal Court Rules > MARYLAND RULES > TITLE 17. ALTERNATIVE DISPUTE RESOLUTION > CHAPTER 500. COLLABORATIVE LAW PROCESS

Rule 17-501. Applicability

This Chapter applies to a collaborative law process under Code, Courts Article, Title 3, Subtitle 20 (Maryland Uniform Collaborative Law Act).

History

(Added March 3, 2015, effective July 1, 2015.)

Source. --

This Rule is new.

Michie s Annotated Code of Maryland, Maryland Rules

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Rule 17-502. Definitions

In this Chapter, the definitions in Code, Courts Article § 3-2001 apply except as expressly otherwise provided or as necessary implication requires, and the term "collaborative attorney" has the meaning stated in Code, Courts Article, § 3-2001 (e) for "collaborative lawyer."

History

(Added March 3, 2015, effective July 1, 2015.)

Source. --

This Rule is new.

Annotations

Commentary

COMMENT

Code, Courts Article, § 3-2001 contains definitions of "person" and "proceeding" that differ from the definition in Rule 1-202. In this Chapter, the statutory definitions supersede the definitions of "person" and "proceeding" in Rule 1-202.

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Rule 17-503. Informed consent; contents of agreement

(a) Requirements Before a Collaborative Law Process Begins. Before beginning a collaborative law process, an attorney shall:

- (1)** discuss with the client factors the attorney reasonably believes relate to whether a collaborative law process is appropriate, including reasonably available alternatives to a collaborative law process;
- (2)** provide the client with information that the attorney reasonably believes is sufficient for the client to make an informed decision about the material benefits and risks of a collaborative law process;
- (3)** advise the client that participation in a collaborative law process is voluntary and any party has the right unilaterally to terminate a collaborative law process with or without cause;
- (4)** explain to the client that if the collaborative law proceeding terminates prior to full resolution of all collaborative matters, the client will need to obtain another attorney or proceed without an attorney; and
- (5)** make a reasonable effort to determine whether the client has a history of a coercive or violent relationship with another prospective party, and if such circumstances exist, to determine whether a collaborative law process is appropriate.

(b) Certification and Acknowledgment. In addition to complying with the requirements of Code, Courts Article, § 3-2002., a collaborative law participation agreement shall contain a certification by each collaborative attorney that the collaborative attorney has complied with section (a) of this Rule and an acknowledgment by all parties of the requirements under Rule 17-506 applicable to the party's attorney and to each other attorney who will participate in the collaborative law process.

History

(Added March 3, 2015, effective July 1, 2015.)

Source. --

This Rule is new.

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Rule 17-504. Stay

(a) Motion. The parties to a pending court action may file a joint motion to stay court proceedings during a collaborative law process. The motion shall include a certification that a collaborative law participation agreement that complies with the requirements of Code, Courts Article, § 3-2002 and Rule 17-503 has been signed by all parties and their attorneys.

(b) Order; Extension of Stay. Subject to sections (c) and (d) of this Rule, upon the filing of a joint motion by all parties, the court shall stay court proceedings for a reasonable period of time during the collaborative law process, unless the court finds the existence of extraordinary circumstances requiring denial of the motion. On motion of the parties, for good cause shown, the court may enter an order to extend a stay. An order to stay court proceedings and an order to extend a stay shall specify the date on which the stay terminates, subject to an earlier lifting of the stay in accordance with section (d) of this Rule.

(c) Proceedings During Stay. During a stay, a party and the party's attorney may appear before a court to:

(1) request or defend against a request for an emergency order to protect the health, safety, welfare, or interest of a party or party eligible for relief; or

(2) request approval of a full or partial settlement of a collaborative law matter.

Cross references. -- See Code, Courts Article, §§ 3-2004. and 3-2005.

(d) Lift of Stay. A court shall lift a stay:

(1) upon request of any party;

(2) on the date stated in an order for stay or for extension of the stay entered pursuant to section (b) of this Rule;

(3) for lack of prosecution under Rule 2-507 or 3-507; or

(4) as necessary to comply with statutory time requirements for proceedings in an orphans' court or before a register of wills relating to the settlement of decedents' estates under Title 6 of the Maryland Rules.

History

(Added March 3, 2015, effective July 1, 2015.)

Source. --

This Rule is new.

Annotations

Commentary

COMMENT

Time elapsed during a stay under this Rule is not included in the computation of time under any applicable case management time standards or guidelines.

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Rule 17-505. Termination of collaborative law process; withdrawal of appearance

(a) If All Collaborative Matters Resolved. At the conclusion of a collaborative law process that resolves all collaborative matters and all other issues in an action pending in a court, the parties shall file:

- (1)** a stipulation of dismissal;
- (2)** a consent judgment; or
- (3)** a request for other appropriate relief necessary or desirable to implement the parties' agreement resulting from the collaborative law process.

(b) Unresolved Collaborative Matters. If a collaborative matter or other issue remains unresolved at the conclusion of a collaborative law process pertaining to an action pending in a court, a collaborative law attorney shall:

- (1)** notify the court that the collaborative law process has terminated and, if a stay is in effect, request that it be lifted;
- (2)** if the parties agreed to a resolution of any collaborative matter that requires court action for implementation of the parties' agreement, request such action from the court; and
- (3)** file a notice or a motion, as appropriate, to withdraw.

Cross references. -- See Rules 2-132 and 3-132.

(c) Motion to Require Compliance. If a collaborative attorney who is required to file a notice or motion to withdraw has not done so within a reasonable time after termination of the collaborative law process, a party may file a motion to require the collaborative law attorney to comply with subsection (b)(3) of this Rule.

History

(Added March 3, 2015, effective July 1, 2015.)

Source. --

This Rule is new.

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Rule 17-506. Scope of representation

(a) Definitions. In this Rule, "firm" and "screened" have the meanings stated in Rule 19-301.0 of the Maryland Attorneys' Rules of Professional Conduct.

(b) Generally. Except as otherwise provided in section (c) of this Rule:

(1) a collaborative attorney who represents a client in a collaborative law process pursuant to a collaborative law participation agreement may not represent a party in a proceeding related to the collaborative matter, notwithstanding any subsequent agreement between the client and the attorney; and

(2) an attorney associated with a firm with which the collaborative attorney is associated may not appear before a tribunal to represent a party in a proceeding related to the collaborative matter if the collaborative attorney is prohibited from doing so under this section.

(c) Exceptions.

(1) If the collaborative attorney is associated with a firm that is (A) a legal services organization providing legal services to indigent individuals or (B) the legal department of a government, another attorney in the firm may represent the collaborative attorney's client in a proceeding, provided that the collaborative attorney is timely screened from participation in the subsequent representative and full disclosure of this exception is made and acknowledged in the collaborative law participation agreement.

Cross references. -- See Rule 17-503 (b).

(2) A collaborative attorney may represent a party in connection with the filing of a stipulation, consent judgment, or request for court action to implement an agreement resolving a collaborative matter.

History

(Added March 3, 2015, effective July 1, 2015; amended June 6, 2016, effective July 1, 2016.)

Source. --

This Rule is new.

Annotations

Notes

Effects of Amendments. --

The 2016 amendment substituted "Rule 19-301.0 of the Maryland Attorneys" for "Rule 1.0 of the Maryland Lawyers" in (a).

Research References & Practice Aids

Cross references. --

See Rule 17-505 (a) and (b)(2).

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Rule 17-507. Confidentiality; privilege

Code, Courts Article, §§ 3-2008 through 3-2011 govern confidentiality of collaborative law communications and the privilege against disclosure of information.

History

(Added March 3, 2015, effective July 1, 2015.)

Source. --

This Rule is new.

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