

Table of Contents

CHAPTER 1. SUMMARY JUDGMENT

I. SUGGESTED MOTION TEXT

- § 1:1 Summary judgment
- § 1:2 Overview of motion

II. KEY SUPPORTING CITATIONS

- § 1:3 Summary judgment—Authority for motion [Maryland Rule 2-501]
- § 1:4 ——Description and purpose
- § 1:5 ——Not to be disfavored
- § 1:6 ——“Genuine issues of material fact”
- § 1:7 ——Genuine issues of material fact re: opposition to motion
- § 1:8 ——Summary judgment in specific recent cases—Personal injury, wrongful death, and property damage
- § 1:9 ——Employment and discrimination
- § 1:10 ——Contract and insurance
- § 1:11 ——Legal malpractice
- § 1:12 ——Medical malpractice
- § 1:13 ——Miscellaneous
- § 1:14 Procedural considerations—Generally
- § 1:15 ——Timing—Bringing motion
- § 1:16 ——Notice of motion
- § 1:17 ——Opposition
- § 1:18 ——Format and content of motion and response
- § 1:19 ——Statement of grounds
- § 1:20 ——Specific references to discovery or other instruments
- § 1:21 ——Form of affidavits and testimony—Generally
- § 1:22 ——Defects
- § 1:23 ——When affidavits are unavailable
- § 1:24 ——Contradictory affidavits
- § 1:25 ——Continuances—Generally
- § 1:26 ——Opposing continuance
- § 1:27 ——Court’s discretion
- § 1:28 ——Oral argument
- § 1:29 ——Case not fully adjudicated
- § 1:30 Burden of proof—Generally
- § 1:31 ——Burden where defendant brings motion—Negating plaintiff’s case
- § 1:32 ——Proving affirmative defense
- § 1:33 ——Shifting burden to plaintiff
- § 1:34 ——Burden where plaintiff brings motion—Generally
- § 1:35 ——Shifting burden to defendant
- § 1:36 Evidence on motion—Generally
- § 1:37 ——Evidence viewed in light most favorable to nonmoving party

- § 1:38 —Admissible supporting evidence—Generally
- § 1:39 ——Affidavits
- § 1:40 ——Discovery and depositions
- § 1:41 ——Inferences
- § 1:42 ——Request for judicial notice
- § 1:43 ——Stipulations
- § 1:44 ——Attacking opposition evidence—Generally
- § 1:45 ——Incompetent affidavits
- § 1:46 ——Speculation or conjecture
- § 1:47 ——Improper exhibits
- § 1:48 ——Untimely filed evidence
- § 1:49 ——Objections to evidence—Generally
- § 1:50 Review of motion—By direct appeal
- § 1:51 —By interlocutory appeal
- § 1:52 —Standard of review

III. KEY OPPOSITION CITATIONS

- § 1:53 Summary judgment—Generally
- § 1:54 —Granted with caution
- § 1:55 —Summary judgment improper when genuine issues of material fact exist
- § 1:56 —Summary judgment in specific recent cases—Personal injury, wrongful death, and property damage
 - Employment and discrimination cases
 - Contract and Insurance
 - Legal malpractice
 - Medical malpractice
 - Miscellaneous
- § 1:62 Procedural considerations—Timing
 - Inadequate notice
 - Timely opposition
- § 1:65 —Format and content of motion and opposing papers
- § 1:66 —Statement of grounds and authorities
- § 1:67 —Format and content of motion and opposing—Failure to file opposition
- § 1:68 —Form of affidavits and testimony—Generally
- § 1:69 ——Contradictory affidavits
- § 1:70 ——Defects
- § 1:71 —Request for continuance—To conduct further discovery
- § 1:72 Burden of proof—Generally
- § 1:73 —Burden where defendant brings motion—Generally
 - Negating plaintiff's case
 - Motion based on affirmative defense
- § 1:76 —Burden where plaintiff brings motion—Generally
 - On defendant's counterclaim
- § 1:78 Evidence on motion—Generally
- § 1:79 ——Inferences and doubts resolved in favor of nonmoving party
- § 1:80 —Genuine issue of material fact
- § 1:81 —Attacking supporting evidence—Generally

TABLE OF CONTENTS

- § 1:82 — Incompetent affidavits
- § 1:83 — Objections—Generally
- § 1:84 Appellate review

IV. SAMPLE SUPPORTING AND OPPOSITION BRIEFS

- § 1:85 Motion for summary judgment by defendant—Request for judicial notice in support of motion for summary judgment
- § 1:86 —Affidavit in support of motion for summary judgment
- § 1:87 —Brief in support of summary judgment—Defamation
- § 1:88 —Brief in support of summary judgment—Workers' compensation
- § 1:89 ——Res judicata
- § 1:90 Memorandum in support of defendant's motion for summary judgment—Assumption of risk defense
- § 1:91 —Recreational-use immunity
- § 1:92 Memorandum in support of defendant's motion for summary judgment—Preemption
- § 1:93 Memorandum in support of defendant's motion for summary judgment (lack of foreseeable risk)
- § 1:94 Sample orders—Order for entry of summary judgment
- § 1:95 —Order denying summary judgment
- § 1:96 Plaintiff's opposition to defendant's motion for summary judgment—Memorandum of points and authorities in opposition to motion for summary judgment
 - Genuine issue of material fact
 - Governmental immunity
 - Emotional distress
 - Breach of employment contract
- § 1:101 Memorandum in support of Plaintiff's motion for summary judgment—Dog bite statute
- § 1:102 Memorandum in support of Defendant's motion for summary judgment—Dog bite statute

CHAPTER 2. CHALLENGES TO A COURT'S JURISDICTION AND RELATED MOTIONS

I. CHAPTER OVERVIEW AND SUGGESTED MOTION TEXT

- § 2:1 Suggested motion text
- § 2:2 Overview of motion

II. KEY SUPPORTING CITATIONS

- § 2:3 Motion authorities
- § 2:4 —In general
- § 2:5 Common grounds for motion—Subject matter of suit not within court's jurisdiction—Constitutional provisions—Circuit court
- § 2:6 ——District court

- § 2:7 ——Statutory provisions—Circuit courts
- § 2:8 ——District courts in general
- § 2:9 ——District courts—Criminal proceedings
- § 2:10 ——Juvenile proceedings
- § 2:11 ——Civil proceedings
- § 2:12 ——Small claims
- § 2:13 ——Relevant case authorities
- § 2:14 —Religion
- § 2:15 —Nonjusticiable questions [moot, hypothetical, or abstract questions, lack of standing]
- § 2:16 —Other court with exclusive jurisdiction
- § 2:17 —Exhaustion of administrative remedies
- § 2:18 —Failure to properly invoke jurisdiction
- § 2:19 Evidence on motion
- § 2:20 Review of motion—Generally
- § 2:21 —Direct appeal
- § 2:22 —Interlocutory appeal
- § 2:23 —Standard of review

III. KEY OPPOSITION CITATIONS

- § 2:24 General authorities—In general
- § 2:25 Common grounds—Subject matter within court’s jurisdiction
- § 2:26 —Religion
- § 2:27 —Nonjusticiable questions [moot, hypothetical, or abstract questions, lack of standing]
- § 2:28 —Other court with exclusive jurisdiction
- § 2:29 —Exhaustion of administrative remedies
- § 2:30 —Properly invoking jurisdiction
- § 2:31 —Political questions and separation of powers
- § 2:32 Procedural considerations—Generally
- § 2:33 Review—Generally

IV. SAMPLE SUPPORTING AND OPPOSITION MOTIONS AND ORDERS

- § 2:34 Notice of motion to dismiss for lack of jurisdiction
- § 2:35 Memorandum of law in support of motion to dismiss for lack of jurisdiction
- § 2:36 Order of dismissal
- § 2:37 Memorandum of law in support of motion to dismiss for lack of jurisdiction (First Amendment exercise of religion)
- § 2:38 Memorandum of law in support of motion to dismiss for lack of standing
- § 2:39 Memorandum in support of defendant’s motion to dismiss for lack of subject matter jurisdiction (jurisdictional monetary limit)

TABLE OF CONTENTS

CHAPTER 3. MOTION TO STRIKE

I. CHAPTER OVERVIEW AND SUGGESTED MOTION TEXT

- § 3:1 Suggested motion text
- § 3:2 Overview of motion

II. KEY SUPPORTING CITATIONS

- § 3:3 Typical use of motion—Signing of pleadings and papers
- § 3:4 —Insufficient defense
- § 3:5 —Improper, immaterial, impertinent, or scandalous material
- § 3:6 —Pleadings not in compliance with rules
- § 3:7 —Arising from discovery abuse
- § 3:8 Grounds and authority for motion to strike—Signing of pleadings and papers—General authority
- § 3:9 ——Relevant cases
- § 3:10 —Insufficient defense—In general
- § 3:11 —Improper, immaterial, impertinent, or scandalous material—General authority
- § 3:12 ——Relevant cases
- § 3:13 —Not in compliance with rules—General authority
- § 3:14 ——Relevant cases—Generally
- § 3:15 ——Untimely filings
- § 3:16 ——Improper amendments
- § 3:17 —Discovery sanctions—General authority
- § 3:18 ——Relevant cases
- § 3:19 Key procedural requirements—In general
- § 3:20 —Timing—Insufficient defense
- § 3:21 ——Improper, immaterial, impertinent, or scandalous material
- § 3:22 ——Not in compliance with rules
- § 3:23 ——Discovery sanctions
- § 3:24 Appellate review of motion
- § 3:25 —By direct appeal
- § 3:26 —By interlocutory appeal
- § 3:27 —Standard of review—In general
- § 3:28 ——Not in compliance with rules
- § 3:29 ——Discovery sanctions

III. KEY OPPOSITION CITATIONS

- § 3:30 Signature requirement
- § 3:31 Insufficient defense
- § 3:32 Not in compliance with rules—Late filings
- § 3:33 —Amendments to pleadings
- § 3:34 Discovery sanctions
- § 3:35 Appellate review

IV. SAMPLE SUPPORTING AND OPPOSITION BRIEFS

- § 3:36 Notice of motion to strike pleadings for discovery abuse

- § 3:37 Motion to strike pleadings for discovery abuse
- § 3:38 —Affidavit in support of motion to strike pleadings for discovery abuse
- § 3:39 —Response in opposition to motion to strike pleadings for discovery abuse
- § 3:40 —Affidavit in support of response in opposition to motion to strike pleadings for discovery abuse
- § 3:41 —Order granting motion to strike pleadings for discovery abuse
- § 3:42 Motion to strike untimely counterclaim—Brief in support of motion to strike
- § 3:43 Motion to strike complaint—Brief in support of motion to strike (improper, immaterial, impertinent, or scandalous matter)
- § 3:44 Motion to strike amended complaint—Brief in support of motion to strike (amended complaint filed without leave to amend)

CHAPTER 4. LACK OF PERSONAL JURISDICTION AND RELATED WAIVABLE DEFENSES

I. CHAPTER OVERVIEW AND SUGGESTED MOTION TEXT

- § 4:1 Suggested motion text
- § 4:2 Overview of motion

II. KEY SUPPORTING CITATIONS

- § 4:3 General authorities
- § 4:4 —Due process considerations
- § 4:5 —General and special appearances
- § 4:6 Grounds for motion—Lack of personal jurisdiction
- § 4:7 —Insufficiency of process and service of process
- § 4:8 Procedural considerations—Timing of motion
- § 4:9 —Proof of jurisdiction
- § 4:10 —Waiver of jurisdictional defects
- § 4:11 Lack of personal jurisdiction—Generally
- § 4:12 —Burden of showing
- § 4:13 —Types of jurisdiction—General jurisdiction
- § 4:14 ——Specific jurisdiction
- § 4:15 —Lack of minimum contacts
- § 4:16 —Consent to jurisdiction
- § 4:17 —Waiver not effective
- § 4:18 Insufficiency of process—Overview
- § 4:19 —Waiver
- § 4:20 Insufficiency of service of process—Overview
- § 4:21 —Waiver
- § 4:22 —Examples of ineffective service
- § 4:23 —Actual notice insufficient

TABLE OF CONTENTS

- § 4:24 Review of motion—Generally
- § 4:25 —Standard of review

III. KEY OPPOSITION CITATIONS

- § 4:26 General authorities—General and special appearances
- § 4:27 —Burden
- § 4:28 —Plaintiff's right to discovery on jurisdiction issue
- § 4:29 Procedural considerations—Waiver of jurisdictional defect claim
- § 4:30 Personal jurisdiction—Consent to jurisdiction
- § 4:31 —Representative cases
- § 4:32 —Existence of minimum contacts
- § 4:33 Insufficiency of process—In general
- § 4:34 Insufficiency of service of process—In general
- § 4:35 Appellate review

IV. SAMPLE SUPPORTING AND OPPOSITION BRIEFS

- § 4:36 Notice of motion to dismiss for lack of personal jurisdiction
- § 4:37 Memorandum of points and authorities in support of motion to dismiss based upon lack of jurisdiction over the person
- § 4:38 Affidavit in support of motion to dismiss for lack of personal jurisdiction
- § 4:39 Plaintiff's memorandum in opposition to defendant's motion to dismiss for lack of personal jurisdiction
- § 4:40 Order denying motion to dismiss for lack of personal jurisdiction
- § 4:41 Notice of motion to dismiss for insufficiency of service of process
- § 4:42 Memorandum of points and authorities in support of motion to dismiss for insufficiency of service of process
- § 4:43 Memorandum of points and authorities submitted in support of motion to dismiss for insufficiency of service of process (substituted service)
- § 4:44 Plaintiff's opposition to defendant's motion to dismiss for lack of personal jurisdiction—Memorandum of points and authorities in opposition to motion to dismiss (waiver)
- § 4:45 Plaintiff's opposition to defendant's motion to dismiss for insufficient service of process (substitute service of process)

CHAPTER 5. DISMISSAL MOTIONS

I. CHAPTER OVERVIEW

- § 5:1 Summary of motions

II. DISMISSAL FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED

- § 5:2 Suggested motion text
- § 5:3 Overview of motion
- § 5:4 Key supporting citations

- § 5:5 —Overview
- § 5:6 —Authority for motion
- § 5:7 —Burden
- § 5:8 —Procedural considerations—Timing
- § 5:9 ——When treated as motion for summary judgment
- § 5:10 ——Motion specifics
- § 5:11 ——Hearing
- § 5:12 —Review of order—In general
- § 5:13 ——Standard of review
- § 5:14 —Representative cases
- § 5:15 Key opposition citations
- § 5:16 —Overview
- § 5:17 —Burden
- § 5:18 —Review of order—In general
- § 5:19 ——Standard of review
- § 5:20 —Representative cases

III. DISMISSAL BASED ON FORUM NON CONVENIENS

- § 5:21 Suggested motion text
- § 5:22 Overview of motion
- § 5:23 Key supporting citations—Primary authorities
- § 5:24 ——Description and purpose
- § 5:25 ——Discretionary decision
- § 5:26 ——Factors weighed by court
- § 5:27 —Procedural considerations—Burden
- § 5:28 ——Motion required
- § 5:29 ——Hearing not required
- § 5:30 —Forum selection clauses—Generally
- § 5:31 ——Burden
- § 5:32 —Review of order—In general
- § 5:33 ——Standard of review
- § 5:34 —Representative cases
- § 5:35 Key opposition citations—In general
- § 5:36 ——Discretionary decision
- § 5:37 —Factors weighed by court—In general
- § 5:38 —Burden
- § 5:39 —Forum selection clauses
- § 5:40 —Representative cases

IV. DISMISSAL FOR LACK OF PROSECUTION

- § 5:41 Suggested text
- § 5:42 Overview
- § 5:43 Key supporting citations
- § 5:44 —Authority—Maryland Rule 2-507
- § 5:45 ——Purpose of rule
- § 5:46 —Deferral of dismissal—Authority
- § 5:47 ——Factors against deferral
- § 5:48 —Procedural considerations—No motion required

TABLE OF CONTENTS

- § 5:49 — —Notice of dismissal
- § 5:50 —Appellate review—In general
- § 5:51 —Representative cases
- § 5:52 Key opposition authorities
- § 5:53 —Generally
- § 5:54 —Factors in favor of deferral of dismissal
- § 5:55 —Procedural considerations—Notice
- § 5:56 —Representative cases

V. DISMISSAL BASED ON FAILURE TO JOIN INDISPENSABLE PARTY

- § 5:57 Suggested motion text
- § 5:58 Overview of motion
- § 5:59 Key supporting authorities
- § 5:60 —Primary authorities—Maryland Rule 2-322(b)
- § 5:61 — —Joining indispensable parties [Maryland Rule 2-211(a)]
- § 5:62 — —Dismissal for failure to join indispensable party [Maryland Rule 2-211(c)]
- § 5:63 —Grounds for motion—Statutory factors [Maryland Rule 2-211(c)]
- § 5:64 — —Purposes of mandatory joinder rule
- § 5:65 —Appellate review
- § 5:66 —Relevant cases
- § 5:67 Key opposition authorities
- § 5:68 —Generally—Dismissal disfavored
- § 5:69 — —Relevant cases

VI. SAMPLE SUPPORTING AND OPPOSITION BRIEFS

- § 5:70 Notice of motion to dismiss action for failure to state a claim
- § 5:71 Defendant's memorandum of points and authorities in support of motion to dismiss for failure to state a claim
- § 5:72 Defendant's brief in support of motion to dismiss—Medical malpractice
- § 5:73 Plaintiff's opposition to motion to dismiss action [forum non conveniens]
- § 5:74 Affidavit of plaintiff [name] in opposition to motion to dismiss action
- § 5:75 Motion to dismiss for failure to state a claim by defendant—Brief in support of motion to dismiss (statute of limitations)
- § 5:76 Defendant's motion to dismiss—Memorandum of points and authorities in support of motion to dismiss (anti-SLAPP statute)
- § 5:77 Defendant's motion to dismiss for failure to state a claim—Memorandum of points and authorities in support of motion to dismiss for failure to state a claim (fraud plead with particularity)
- § 5:78 —Memorandum of points and authorities in support of motion to dismiss for failure to state a claim (underinsured motorists)

MARYLAND SUMMARY JUDGMENT AND RELATED MOTIONS

§ 5:79 Motion to dismiss for failure to state a claim by defendant—
Brief in support of motion to dismiss (Local Government
Tort Claims Act)

Table of Laws and Rules

Table of Cases

Index