

# Responding to a Complaint: Maryland

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A Q&A guide to responding to a complaint in a trial court of general jurisdiction in Maryland. This Q&A addresses the time to respond, extending the time to respond, pre-answer motions, answers, replies to the answer, counterclaims, crossclaims, third-party claims (also known as impleader), and defensive interpleader. Answers to questions can be compared across a number of jurisdictions (see Responding to a Complaint: State Q&A Tool).

## OVERVIEW OF RESPONDING TO A STATE COMPLAINT

### 1. When must a defendant respond to the complaint?

#### CIRCUIT COURTS

In Maryland circuit courts, a defendant must file an answer to a complaint within 30 days after being served, with some exceptions (Md. Rule 2-321(a)). For example:

- A defendant who is served with a complaint outside of Maryland but within the US must file an answer within 60 days after being served.
- A defendant who is served with a complaint outside of the US must file an answer within 90 days after being served.
- If the US or an officer or agency of the US is a defendant, the answer must be filed within 60 days after service of the complaint.
- If a defendant is required by statute to have a resident agent, and the original pleading is served on a state agency authorized by statute to receive process, that defendant must file an answer within 60 days of service on the state agency.
- A defendant who is served with a complaint by publication or posting must file an answer within the time specified by the notice.

- When rules for special proceedings or state or federal statutes impose a different time to answer, the answer must be filed within the time specified by those rules or statutes.

(Md. Rule 2-321(b).)

Rather than filing an answer, a defendant may file a preliminary motion (Md. Rule 2-322). The filing of a preliminary motion under Maryland Rule 2-322 automatically extends the time for filing an answer to either:

- 15 days after the court's entry of the decision on the motion.
- 15 days after service of a more definite statement.

(Md. Rule 2-321(c).)

#### DISTRICT COURTS

In the Maryland district court, a defendant must respond to a complaint by filing a notice of intention to defend within 15 days after service of the complaint (Md. Rule 3-307). However, a defendant has 60 days to file the notice if the defendant is:

- Served outside of the state.
- A person who is required by statute to have a resident agent and who is served by service on a state agency authorized by statute to receive process.
- The US or an officer or agency of the US.

(Md. Rule 3-307(b).) There are no district court rules specifically addressing whether preliminary motions are permitted (see generally Md. Rule 3-311 (motion practice in district court)).

### 2. How, if at all, can one obtain an extension of time to respond (for example, by stipulation, so-ordered stipulation, ex parte motion, motion on notice)?

#### BY MOTION

In Maryland, a court may extend the time to respond to a complaint, for cause shown, if a defendant files a motion either:

- Before the answer or notice of intention to defend is due.
- After the answer or notice of intention to defend is due, if there is a reasonable excuse for the failure to timely respond.

(Md. Rule 1-204(a).) This motion may be ex parte only if the motion sets out facts that show either:

- The moving party both:
  - attempted but was unable to reach agreement with the opposing party; and
  - notified or attempted to notify the opposing party of the time and place the moving party intends to confer with the court.
- The moving party would be prejudiced if required to comply with the above requirements.

(Md. Rule 1-204(b).)

### BY STIPULATION

In practice, the parties may stipulate in writing to an extension of time to respond. However, the only method set forth in the Maryland Rules for requesting an extension of time is by motion (Md. Rule 1-204). Parties should obtain court approval of the stipulation.

### 3. What types of responses are permitted (for example, answer, motion, demurrer, special appearance)?

Under Maryland law, the ways to respond to a complaint differ by court. In circuit court, a defendant may respond with:

- An answer (Md. Rule 2-323).
- A motion (Md. Rule 2-322, 2-327, and 2-501).

In district court, a defendant must respond with a notice of intention to defend (Md. Rule 3-307). A defendant may also file a motion contemporaneously with the notice of intention to defend.

## PRE-ANSWER RESPONSES

### 4. If motions, demurrers, or the like are permitted:

- Are there any preliminary requirements (for example, meet and confer with the plaintiff's counsel, have a conference with the court)?
- What grounds can be asserted (for example, subject matter jurisdiction, personal jurisdiction, failure to state a claim)?
- Are available grounds that are not asserted waived (either just for pre-answer litigation or for the whole case)?
- What papers are required (for example, notice of motion, motion, affidavit, memorandum of law)?
- Can the defendant offer evidence outside the complaint?
- When and how does the plaintiff respond?
- Can the defendant reply? If so, when and how?
- Does the court hear oral argument before deciding?
- Is discovery stayed until the court decides?
- If the court does not dismiss the complaint, how much time does the defendant have to file an answer?

There are no district court rules addressing whether preliminary motions are permitted. The following applies to preliminary motions filed in circuit courts.

## MOTION TO DISMISS

### Preliminary Requirements

There are no preliminary requirements for a motion to dismiss.

### Grounds Asserted

A party must raise the following mandatory defenses in a preliminary motion to dismiss:

- Lack of personal jurisdiction.
- Improper venue.
- Insufficient process.
- Insufficient service of process.

(Md. Rule 2-322(a).)

A party may raise the following permissive defenses in a preliminary motion to dismiss:

- Lack of subject matter jurisdiction.
- Failure to state a claim upon which relief can be granted.
- Failure to join a party.
- Discharge in bankruptcy.
- Governmental immunity.

(Md. Rule 2-322(b).)

### Waiver

If mandatory defenses are not asserted in a preliminary motion before an answer is filed, they are waived (Md. Rule 2-322(a)). A party may raise the following permissive defenses in a preliminary motion, in any pleading, in a motion for summary judgment, or at trial on the merits:

- Failure to state a claim on which relief can be granted.
- Failure to join a party.
- Governmental immunity.

(Md. Rule 2-324(a).) The permissive defense of discharge in bankruptcy may be raised in the answer or "in any other appropriate manner" after the answer is filed (Md. Rule 2-322(b)). The law is unclear on the meaning of "in any other appropriate manner", but it is likely that this would include dispositive motions filed after the answer.

A party may always raise the defense of lack of subject matter jurisdiction (Md. Rule 2-324(b)).

### Required Papers

A preliminary motion to dismiss must comply with Maryland Rule 2-311 and 2-322. The motion to dismiss must:

- Be in writing.
- Clearly state the relief or order sought.
- State with particularity the grounds and authorities in support of each ground.

(Md. Rule 2-311(a), (c).)

Although the Maryland Rules do not expressly require a memorandum of law, in practice, attorneys typically file a motion and a separate memorandum of law in support.

### Outside Evidence

If a defendant offers outside evidence in a motion to dismiss, the court typically treats the motion as one for summary judgment (Md. Rule 2-322(c)). However, if a defendant includes a document that is expressly referred to in the complaint or merely supplements the allegations of the complaint, and the document is not controverted, consideration of the document usually does not convert the motion into one for summary judgment (see *Advance Telecom Process LLC v. DSFederal, Inc.*, 119 A.3d 175, 181-82 (Md. Ct. Spec. App. 2015); *Margolis v. Sandy Spring Bank*, 110 A.3d 784, 788 n.4 (Md. Ct. Spec. App. 2015)).

A court may also take judicial notice of additional facts that are either matters of common knowledge or capable of certification without converting a motion to dismiss into a motion for summary judgment, such as:

- Official entries in circuit court records.
- Well-established and scientifically understood facts.

(See *Faya v. Almaraz*, 620 A.2d 327, 331 (Md. 1993).)

### Response by Plaintiff

A plaintiff must file a response to a motion to dismiss within 15 days after service of the motion (Md. Rule 2-311(b)). If a defendant serves the motion to dismiss on the plaintiff by mail, the plaintiff has 18 days after service to respond (Md. Rule 1-203(c)).

### Reply by Defendants

The Maryland Rules do not explicitly address a defendant's right to file a reply. As a matter of practice, however, defendants are permitted to file replies without leave of court.

### Oral Arguments

A party may request a hearing on a motion to dismiss by including the request in the motion or the response under the heading "Request for Hearing." The title of the motion or response must expressly state that the party is requesting a hearing. The court cannot render a decision on a motion to dismiss without a hearing if a party requests one. (Md. Rule 2-311(f).)

### Stay of Discovery

Filing a motion to dismiss does not automatically stay discovery (see *Pac. Mortg. & Inv. Grp., Ltd. v. Horn*, 641 A.2d 913, 920 (Md. Ct. Spec. App. 1994)).

### Serving an Answer or Other Response

If the court denies the motion to dismiss, a defendant has 15 days after entry of the court's order to file an answer (Md. Rule 2-321(c)).

## MOTION FOR SUMMARY JUDGMENT

A defendant may challenge a complaint by moving for summary judgment.

### Preliminary Requirements

There are no preliminary requirements for a motion for summary judgment.

### Grounds Asserted

Generally, a court will grant a motion for summary judgment if:

- There is no genuine dispute as to any material fact.
- The moving party is entitled to judgment as a matter of law.

(Md. Rule 2-501(a).)

### Waiver

Motions for summary judgment may not be filed:

- After any evidence is received at trial on the merits.
- After the deadline for dispositive motions specified in the court's scheduling order, unless the court grants permission.

(Md. Rule 2-501(a).)

### Required Papers

A motion for summary judgment typically includes:

- The motion and memorandum of law.
- An affidavit in support.

(Md. Rule 2-501(a); see *Champion v. United Virginia Bank*, 589 A.2d 1328, 1330 (Md. Ct. Spec. App. 1991).) Affidavits must:

- Be made on personal knowledge.
- Show that the affiant is competent to testify.
- Set forth facts that would be admissible in evidence.

(Md. Rule 2-501(c).)

### Outside Evidence

Most summary judgment motions involve outside evidence. If the motion is based on facts not contained in the record, a summary judgment motion must be supported by affidavit (Md. Rule 2-501(a)). Also, courts may take judicial notice of additional facts that are either matters of common knowledge or capable of certification (see *Faya*, 620 A.2d at 331).

### Response by Plaintiff

A plaintiff must file a response to a motion for summary judgment within 15 days after service of the motion (Md. Rule 2-311(b)). If a defendant serves the motion on the plaintiff by mail, the plaintiff has 18 days after service to respond (Md. Rule 1-203(c)).

A response to a motion for summary judgment must:

- Be in writing;
- Identify with particularity each material fact as to which the plaintiff contends a genuine dispute exists.
- For each such fact, identify and attach documents that demonstrate the dispute.
- Be supported by an affidavit or other written statement under oath, if the response:
  - asserts the existence of a material fact; or
  - controverts any fact contained in the record.

(Md. Rule 2-501(b).)

**Reply by Defendants**

The Maryland Rules do not explicitly address a defendant's right to file a reply. Nonetheless, as a matter of practice, defendants are generally permitted to file replies without leave of court.

**Oral Arguments**

A party may request a hearing on a motion for summary judgment by including the request in the motion or the response under the heading "Request for Hearing." The title of the motion or response must expressly state that the party is requesting a hearing. Although the court is not required to hold a hearing on a motion for summary judgment, it cannot dispose of a claim or defense without a hearing if one was requested. (Md. Rule 2-311(f).)

**Stay of Discovery**

A motion for summary judgment does not stay discovery unless the court so orders.

**Serving an Answer or Other Response**

Filing a motion for summary judgment does not extend the time to file an answer to the complaint.

**MOTION FOR MORE DEFINITE STATEMENT**

Before filing a responsive pleading, a defendant may move for a more definite statement (Md. Rule 2-322(d)).

**Preliminary Requirements**

There are no preliminary requirements for a motion for a more definite statement.

**Grounds Asserted**

A party may file a motion for a more definite statement if the complaint is so vague or ambiguous that a party cannot reasonably frame an answer. A motion for a more definite statement must point out the defects complained of and the details desired. (Md. Rule 2-322(d).)

**Waiver**

A defendant that makes a motion for a more definite statement may join it with any other motions then available to the defendant (Md. Rule 2-322(f)). However, if a defendant moves for a more definite statement, the defendant must also raise any defenses available under Maryland Rule 2-322 or else waive them, except for the following defenses:

- Lack of subject matter jurisdiction.
- Failure to state a claim on which relief can be granted.
- Failure to join a party.
- Governmental immunity.

(Md. Rule 2-322(f) and 2-324.) A defendant waives the right to move for a more definite statement by filing an answer (Md. Rule 2-322(d)).

**Required Papers**

A motion for a more definite statement typically includes the motion itself and a memorandum in support.

**Outside Evidence**

A defendant does not typically include outside evidence in a motion for a more definite statement.

**Response by Plaintiff**

A plaintiff must file a response to a motion for a more definite statement within 15 days after service of the motion (Md. Rule 2-311(b)). If a defendant serves the motion on the plaintiff by mail, the plaintiff has 18 days after service to respond (Md. Rule 1-203(c)).

**Reply by Defendants**

The Maryland Rules do not explicitly address a defendant's right to file a reply. Nonetheless, defendants are generally permitted to file replies without leave of court.

**Oral Arguments**

A party may request a hearing on a motion for a more definite statement by including the request in the motion or the response under the heading "Request for Hearing." The title of the motion or response must expressly state that the party is requesting a hearing. The court may determine whether or not to hold a hearing at its discretion, even if a party requested one. (Md. Rule 2-311(f).)

**Stay of Discovery**

A motion for a more definite statement does not stay discovery unless the court so orders.

**Serving an Answer or Other Response**

If the court grants a motion for a more definite statement, the defendant must file an answer within 15 days after service of the more definite statement (Md. Rule 2-321(c)). If the court grants the motion but the plaintiff does not file an amended complaint within 15 days, the court may strike the complaint (Md. Rule 2-322(d)).

**MOTION TO STRIKE****Preliminary Requirements**

There are no preliminary requirements for a motion to strike.

**Grounds Asserted**

Before filing an answer, a defendant may move to strike:

- Any material from the complaint that is:
  - improper;
  - immaterial;
  - impertinent; or
  - scandalous.
- A complaint not in compliance with the Maryland Rules.

(Md. Rule 2-322(e).)

**Waiver**

A defendant that makes a motion to strike may join it with any other motions then available to the defendant (Md. Rule 2-322(f)). However, if the defendant moves to strike, the defendant must also raise any defenses available under Maryland Rule 2-322 or else waive them, except for the following defenses:

- Lack of subject matter jurisdiction.
- Failure to state a claim on which relief can be granted.
- Failure to join a party.
- Governmental immunity.

(Md. Rule 2-322(f) and 2-324.) A defendant may move to strike before filing a responsive pleading (Md. Rule 2-322(e)).

#### Required Papers

A motion to strike typically includes the motion itself and a memorandum in support.

#### Outside Evidence

The use of evidence in a motion to strike outside the four corners of the complaint is governed by Maryland Rule 2-311(c).

#### Response by Plaintiff

Any response to a motion to strike must be filed within 15 days after service of the motion (Md. Rule 2-311(b)). If the defendant serves the motion on the plaintiff by mail, the plaintiff has 18 days after service to respond (Md. Rule 1-203(c)).

#### Reply by Defendants

The Maryland Rules do not explicitly address a defendant's right to file a reply. Nonetheless, defendants are generally permitted to file replies without leave of court.

#### Oral Arguments

A party may request a hearing on a motion to strike by including the request in the motion or the response under the heading "Request for Hearing." The title of the motion or response must expressly state that the party is requesting a hearing. The court cannot render a decision on a motion to strike that is dispositive of a claim without a hearing if a party requests one. (Md. Rule 2-311(f).)

#### Stay of Discovery

A motion to strike does not stay discovery unless the court so orders.

#### Serving an Answer or Other Response

A defendant must file an answer within 15 days after the entry of the court's order on the motion (Md. Rule 2-321(c)).

### MOTION TO TRANSFER

A defendant may move to transfer the case to a different venue under Maryland Rule 2-327(c) and (d).

#### Preliminary Requirements

There are no preliminary requirements for a motion to transfer.

#### Grounds Asserted

Grounds for transferring a civil action are:

- The convenience of the parties and witnesses.
- The interests of justice.

- Consolidating the action with another action in a different venue involving common questions of law or fact.

(Md. Rule 2-327.) If an action within the exclusive jurisdiction of the district court is filed in the circuit court but the court determines that in the interest of justice the action should not be dismissed, the court may transfer the action to the district court sitting in the same county (Md. Rule 2-327(a)).

#### Waiver

The Maryland Rules do not contemplate a deadline for filing a motion to transfer.

#### Required Papers

A motion to transfer must comply with Maryland Rule 2-311(a) and (c).

#### Outside Evidence

The use of evidence in a motion to transfer outside the four corners of the complaint is governed by Maryland Rule 2-311(c).

#### Response by Plaintiff

A plaintiff must file a response to a motion to transfer within 15 days after service of the motion (Md. Rule 2-311(b)). If the defendant serves the motion on the plaintiff by mail, the plaintiff has 18 days after service to respond (Md. Rule 1-203(c)).

#### Reply by Defendants

The Maryland Rules do not explicitly address a defendant's right to file a reply. Nonetheless, defendants are generally permitted to file replies without leave of court.

#### Oral Arguments

A party may request a hearing on a motion to transfer by including the request in the motion or the response under the heading "Request for Hearing." The title of the motion or response must expressly state that the party is requesting a hearing. The court may determine at its discretion whether or not to hold a hearing, even if a party requested one. (Md. Rule 2-311(f).)

#### Stay of Discovery

A motion to transfer does not stay discovery unless the court grants a motion to stay.

#### Serving an Answer or Other Response

Motions to transfer do not extend the time for filing an answer.

### MOTION TO COMPEL ARBITRATION

If an enforceable agreement to arbitrate exists between the parties and a defendant wishes to compel arbitration, counsel should consider filing a petition to compel arbitration in conjunction with a preliminary motion to dismiss before answering the complaint. If a party takes an action that is inconsistent with an intention to insist upon enforcing an arbitration agreement, the court may find that the party waived the right to arbitrate (see *Charles J. Frank, Inc. v. Associated Jewish Charities of Balt., Inc.*, 450 A.2d 1304, 1306-07 (Md. 1982)).

## DEMURRERS

Demurrers are not permitted (Md. Rule 2-302).

## ANSWERING THE COMPLAINT

### 5. What are the required and optional contents of an answer?

#### REQUIRED CONTENTS

##### Caption

In Maryland, an answer must include a caption listing:

- The parties or the matter (where appropriate).
- The name of the court.
- The assigned docket reference.
- A brief descriptive title identifying the document as an answer.

(Md. Rule 1-301(a).)

##### Denials or Admissions

A defendant must respond to each allegation in the complaint with:

- An admission.
- A denial.
- A statement that the defendant is without knowledge or information sufficient to form a belief as to the truth of an allegation, which has the effect of a denial.

(Md. Rule 2-323(c).) Where appropriate, a defendant may claim the inability to admit, deny, or explain an averment on the grounds that it would incriminate the defendant. Any averments that are not responded to are deemed admitted. (Md. Rule 2-323(e).)

A party may deny specific averments or paragraphs or may generally deny all the averments except averments or paragraphs that are specifically admitted (Md. Rule 2-323(c)). A defendant may generally deny liability for any count for breach of contract, debt, or tort that seeks solely money damages (Md. Rule 2-323(d)).

##### Defenses

The answer may contain any of the following defenses that the defendant has not raised by preliminary motion:

- Lack of subject matter jurisdiction.
- Failure to state a claim on which relief can be granted.
- Failure to join a party.
- Discharge in bankruptcy.
- Governmental immunity.

(Md. Rule 2-322(b) and 2-323(a).)

A defendant may also contest any one of the following issues by negative averment:

- The legal existence of a party, including a partnership or a corporation.
- The capacity of a party to sue or be sued.
- The authority of a party to sue or be sued in a representative capacity.

- The averment of the execution of a written instrument.
- The averment of the ownership of a motor vehicle.

(Md. Rule 2-323(f).) If a defendant does not contest any of these issues in the answer, these matters are deemed admitted for the purpose of the pending action (Md. Rule 2-323(f)).

A defendant must include as separate defenses the following:

- Accord and satisfaction.
- Merger of a claim by arbitration into an award.
- Assumption of risk.
- Collateral estoppel.
- Contributory negligence.
- Duress.
- Estoppel.
- Fraud.
- Illegality.
- Laches.
- Payment.
- Release.
- Res judicata.
- Statute of frauds.
- Statute of limitations.
- Ultra vires.
- Usury.
- Waiver.
- Privilege.
- Total or partial charitable immunity.

(Md. Rule 2-323(g).) Although the above affirmative defenses may be waived if not asserted in the initial answer, the court may permit a defendant to cure the waiver in the interests of justice (see *Samuels v. Tschechtelin*, 763 A.2d 209, 241 (Md. Ct. Spec. App. 2000)).

A defendant may also include by separate defense any other matter constituting an avoidance or affirmative defense on legal or equitable grounds (Md. Rule 2-323(g)).

##### Signature Block

The answer must be signed by either:

- An attorney licensed to practice law in Maryland.
- The defendant, if self-represented.

(Md. Rule 1-311(a).) The signature block must include the signer's:

- Address.
- Phone number.
- Facsimile number, if any.
- Email address, if any.
- Client Protection Fund ID number, if the signer is an attorney and the signature is electronic.

(Md. Rule 1-311(a).)

## Information Report

A defendant must file an information report with the answer if any of the following is true:

- The plaintiff failed to file an information report.
- The defendant disagrees with anything contained in the plaintiff's information report.
- The defendant disagrees with a differentiated case management track previously selected by the court.
- The defendant has filed or expects to file a counterclaim, cross-claim, or third-party claim.

(Md. Rule 2-323(h).) The information report should be substantially the same as the form included with the summons (Md. Rule 2-323(h)). Information reports contain basic information about the case to aid the court in implementing a case management plan (see Md. Rule 16-302(b)(4)). If a defendant fails to file a required information report with the answer, the court may assign the action to any track within the court's differentiated case management system or may continue the action on any track previously assigned (Md. Rule 2-323(h)).

## OPTIONAL CONTENTS

### Exhibits

The Maryland Rules do not explicitly address whether exhibits may be attached to an answer.

### Counterclaims and Cross-Claims

A defendant may assert as a counterclaim any claim that the defendant has against any opposing party, whether or not arising out of the transaction or occurrence that is the subject matter of the opposing party's claim (Md. Rule 2-331(a)).

A defendant may assert as a cross-claim any claim that the defendant has against a co-defendant:

- Arising out of the transaction or occurrence that is the subject matter of:
  - the original action; or
  - a counterclaim in the action.
- Relating to any property that is the subject matter of the original action.

(Md. Rule 2-331(b).)

Although counterclaims and cross-claims may be included in an answer, they are typically filed as separate pleadings. For more information on counterclaims and cross-claims, see Question 9.

## NOTICE OF INTENTION TO DEFEND

In district court, a defendant files a notice of intention to defend instead of an answer (Md. Rule 3-307). The notice of intention to defend must contain:

- The attorney's name, office address, and telephone number, if the defendant is represented by counsel.
- Any explanation or ground of defense.

(Md. Rule 3-307.) A defendant may fill out the blank notice of intention to defend that is attached to the bottom of the summons

and file this with the court (see Maryland Courts: District Court of Maryland: What Do You Do If You Are Sued).

## 6. Under what circumstances, if any, must a defendant verify its response?

A defendant is not required to verify a response to a complaint (Md. Rule 1-301(f), 2-323, and 3-307).

## AMENDING AN ANSWER

### 7. Can a defendant amend its answer? If so:

- When?
- What grounds, if any, must be shown to justify an amendment?

## AMENDMENT AS OF RIGHT

### Time to Amend

In circuit court, a defendant may amend its answer without leave of court:

- Before the date set out in the scheduling order.
- No later than 30 days before the scheduled trial date, if there is no scheduling order.

(Md. Rule 2-341(a).)

In district court, a defendant may amend its notice of intention to defend at any time before 15 days before a scheduled trial date (Md. Rule 3-341(a)).

### Grounds for Amendment

An amendment may:

- Seek to change the nature of the action or defense.
- Provide a better statement of facts concerning any matter already raised in a pleading.
- Set out transactions or events that have occurred since the filing of the pleading sought to be amended.
- Correct misnomer of a party.
- Correct misjoinder or nonjoinder of a party, so long as one of the original plaintiffs and one of the original defendants remain as parties to the action.
- Add parties.
- Make any other appropriate changes.

(Md. Rule 2-341(c) and 3-341(c).)

## AMENDMENT BY PERMISSION

### Time to Amend

In circuit court, a defendant must obtain leave of court to file an amended answer:

- After the date specified in the scheduling order.
- Less than 30 days before the scheduled trial date, if there is no scheduling order.

(Md. Rule 2-341(b).)

In district court, a defendant must obtain leave of court or written consent of the adverse party to file an amended notice of intention to defend either:

- Within 15 days of a scheduled trial date.
- After trial begins.

(Md. Rule 3-341(b).)

### Grounds for Amendment

See Amendment as of Right: Grounds for Amendment. The court must freely allow amendments when justice requires (Md. Rule 2-341(c) and 3-341(c)). A party that opposes leave to amend may file a motion to strike within 15 days after service of the amendment setting forth reasons why the court should not allow the amendment (Md. Rule 2-341(a)).

## REPLYING TO AN ANSWER

### 8. Can a plaintiff file a reply pleading? If so:

- When is it due?
- What grounds, if any, must be shown to justify a reply?
- What are the optional and required contents?

### TIME TO REPLY

In circuit court, a plaintiff may file a reply to an answer only if the court orders it (Md. Rule 2-302). In such cases, the court order sets a deadline for the reply pleading. In district court, no reply pleading is permitted (Md. Rule 3-302).

### GROUNDINGS FOR REPLY

The Maryland Rules do not specify any grounds for when a circuit court may order a reply.

### REPLY CONTENTS

The reply to an answer may deny any allegations contained in the answer that the plaintiff does not wish to admit. Failure to do so may bind the plaintiff to an admission of the facts it has not denied. (See *Cooper v. Sacco*, 745 A.2d 1074, 1079-80 (Md. 2000).)

## DEFENDANT'S AFFIRMATIVE CLAIMS

### 9. Can a defendant assert affirmative claims of its own? If so:

- What types of claims are available (for example, counterclaims, crossclaims, third-party claims) and what is the basic nature of each (for example, who is a proper defendant to it and what is a proper subject)?
- Are any claims by a defendant mandatory (for example, compulsory counterclaims, claims covered by an entire controversy rule)?
- When and how does the defendant assert its claims?
- When and how do other parties respond to a defendant's claims?

## AVAILABLE CLAIMS

### Counterclaims

A defendant may assert as a counterclaim any claim it has against any opposing party, whether or not arising out of the transaction or occurrence that is the subject matter of the opposing party's claim. There is no restriction on the type of relief the counterclaim may seek, except that counterclaims in district court may not seek relief exceeding the monetary jurisdiction of the district court. (Md. Rule 2-331(a) and 3-331(a), (f).)

### Cross-Claims

A defendant may assert as a cross-claim any claim that the defendant has against a co-party:

- Arising out of the transaction or occurrence that is the subject matter of:
  - the original action; or
  - a counterclaim in the action.
- Relating to any property that is the subject matter of the original action.

(Md. Rule 2-331(b) and 3-331(b).) A defendant may not file a cross-claim in district court that exceeds the monetary jurisdiction of the district court (Md. Rule 3-331(f)).

### Third-Party Claims

A defendant, as a third-party plaintiff, may file a summons and complaint against a non-party who is or may be liable to the defendant for all or a part of the plaintiff's claim against the defendant (Md. Rule 2-332(a) and 3-332(a)).

### Interpleader

A defendant may assert interpleader against two or more claimants who claim or may claim to be entitled to property by way of counterclaim or cross-claim (Md. Rule 2-221(a) and 3-221(a)).

## MANDATORY CLAIMS FOR DEFENDANT

Under Maryland law, counterclaims, crossclaims, third-party claims, and interpleader claims are permissive, not compulsory.

## WHEN AND HOW CLAIMS ARE ASSERTED

### Counterclaims

In circuit court, a defendant must file a counterclaim or cross-claim within 30 days after the deadline for filing the answer. If the filing is late, any party may move to strike the counterclaim or cross-claim within 15 days of service of the counterclaim or cross-claim, and the court will grant the motion unless there is a showing that the delay does not prejudice other parties to the action. (Md. Rule 2-331(d).)

In district court, a defendant must file a counterclaim or cross-claim within ten days after the deadline for filing a notice of intention to defend. After this time, the defendant may only file a counterclaim or cross-claim with leave of court for good cause shown. (Md. Rule 3-331(d).)



## Cross-Claims

See Counterclaims.

## Third-Party Claims

In circuit court, third-party claims must be filed within 30 days after a defendant files the answer. If the filing is late, any party may move to strike or sever the third-party claim within 15 days of service of the third-party claim, and the court will grant the motion unless there is a showing that the delay does not prejudice other parties to the action. (Md. Rule 2-332(e).)

In district court, third-party claims must be filed by ten days before the scheduled trial date. After this time, a defendant may only file a third-party claim with the plaintiff's consent or by order of the court. (Md. Rule 3-332(e).)

## Interpleader

A defendant may assert interpleader by means of counterclaim or cross-claim (Md. Rule 2-221(a) and 3-221(a); see Counterclaims).

## OTHER PARTIES' RESPONSE TO DEFENDANT'S CLAIMS

### Counterclaims and Cross-Claims

A party must respond to a counterclaim or a cross-claim in the same manner as a defendant who is served with an original complaint (Md. Rule 2-323 and 3-307). In circuit court, if any party files a motion to strike an untimely filed counterclaim or cross-claim, the time for responding to the counterclaim or cross-claim is extended without special order to 15 days after entry of the court's order on the motion (Md. Rule 2-331(d)).

### Third-Party Claims

A third-party defendant must respond in the same manner as a defendant who is served with an original complaint (Md. Rule 2-332(b) and 3-332(b)). In circuit court, if any party files a motion to strike or sever an untimely filed third-party claim, the time for

responding to the third-party claim is extended without special order to 15 days after entry of the court's order on the motion (Md. Rule 2-332(e)).

The third-party defendant may also assert:

- Counterclaims against the third-party plaintiff.
- Cross-claims against the other third-party defendants.
- Any defenses that the third party has to the plaintiff's claim.
- Any claim against the plaintiff that arises out of the same transaction or occurrence that is the subject matter of the plaintiff's original claim against the third-party plaintiff.

(Md. Rule 2-332(b) and 3-332(b).) The time constraints and requirements that apply to the original defendant also apply to the third-party defendant.

The plaintiff may also assert any claim against the third-party defendant arising out of the same transaction or occurrence that is the subject matter of the plaintiff's original claim against the third-party plaintiff (Md. Rule 2-332(c) and 3-332(c)).

## Interpleader

The counterclaim-defendants or cross-claim defendants subject to the claim of interpleader may answer the claim and oppose the request for interpleader. The court will then schedule a hearing on the matter. (Md. Rule 2-221(b) and 3-221(b).)

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