

New Maryland Rule Affords Broader Access to Business and Technology Court

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A recent rule change has opened the door wider for litigants seeking to resolve their disputes in Maryland's specialized Business and Technology Courts. It expands the number of scenarios in which cases can be moved to Maryland's specialized Business and Technology track. The revision broadens the mandate of the court, and is consistent with the policy of encouraging litigants to maintain complex business disputes in this forum.

Maryland was the first state to create distinct courts to deal with complex legal and factual issues related to business and technology matters. Those courts, housed under the Business and Technology track, are currently located in two areas of the state where many businesses reside: Baltimore City and Montgomery County, an area largely composed of Washington, D.C. suburbs.

The prior version of the rule authorizing the creation and maintenance of the Business and Technology track, Maryland Rule 16-205, listed various factors a court should consider in deciding whether to assign a particular case to that track. The revised rule, Maryland Rule 16-308, expands the reach of the Business and Technology Courts in two ways:

First, the old rule allowed a Maryland court to assign a case to the Business and Technology track, even when the parties were both located outside of Baltimore City and Montgomery County, if both "parties agree to waive venue for the hearing of motions and other pretrial matters." The implication was that, in cases where both parties reside outside of these areas, the Business and Technology courts could only preside over pretrial matters. The new version of the Rule clarifies that this is no longer the case, and that parties may waive venue entirely (*i.e.*, even for trial), "if assignment of the action to the program makes that necessary." Md. Rule 16-308(c)(4).

Second, the old rule also allowed a Maryland court to move a case to the Business and Technology track based on "the degree of novelty and complexity of the factual and legal issues presented." The new rule allows a case to be moved to the Business and Technology track based on "the degree of novelty and complexity of the factual, legal, *or evidentiary issues* presented." Md. Rule 16-308(c)(4) (emphasis added).

Following implementation of these changes, Maryland's Business and Technology track is available as a forum to businesses and individuals throughout Maryland for the entire life of a case.

Furthermore, the addition of "evidentiary" issues as meriting consideration by the Business and Technology Courts, and the clarification that the Business and Technology Courts can hear cases that have complexities of either a factual, legal, or evidentiary nature (even if the case is relatively straightforward from the other two standpoints), should expand the universe of cases meriting removal to the specialized track.

For more information on this advisory or the other business courts that we are monitoring, please contact:

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