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Harford County

Judiciary Committee

Subcommittees

Family Law

Public Safety

Rules and Executive
Nominations Committee

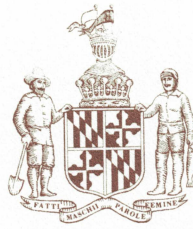
Joint Committees

Administrative, Executive,
and Legislative Review

Legislative Ethics

Past President

Women Legislators of Maryland



The Maryland House of Delegates

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SUPPORT HOUSE BILL 858 – CROSS FILED WITH SB 249

As you might imagine, when lawsuits are filed against licensed professionals such as architects and engineers, allegations of wrongdoings are backed up with demands for evidence from the Plaintiff to the Defendant to support their case. Often these demands take on such depth and breadth that they become unnecessarily invasive and extremely costly. The demands can become so intrusive and expensive that they can be construed as demeaning, embarrassing or overly burdensome to the professional rather than just addressing the claims of the ongoing case as filed.

HB 858 addresses the ambiguity in the current statute to allow the Defendant/Professional to seek intervention by the Court to review and decide what documents must be produced to enable the Plaintiff to fully seek justice in the matter without overly burdening the Defendant or causing undue expense or embarrassment without good cause shown. This bill allows the Professional to seek the Court's review of discovery requests by the Plaintiff before the discovery is produced and without jeopardizing the Professional's right to require a Certificate of Merit from an Expert who has had time to review the documentation as produced in response to discovery, that upon review of the Court, is deemed appropriate and discoverable. Without the time needed to seek the Court's review, as there is only 30 days to respond to discovery requests, the

Professional could lose their right under the current statute, to require an Expert's opinion in the form of a Certificate of Merit that sets forth the merits of the Plaintiff's case or lack thereof. This is an important protection for professionals in the statute already, but time works against them if they object to the discovery requests as allowed by the Rules of Discovery. I have provided you a copy of the pertinent parts with this testimony. The petition to the Court for review of the proposed discovery requests narrows the issues and focuses the parties on the case at hand. It also prevents and limits frivolous lawsuits meant to embarrass or financially cripple a licensed professional.

I have attached the voting record from the Cross-Filed Bill from the Senate: SB249 (2020). It passed with an unanimous vote. Note also, that the same bill passed through the Judiciary and the House of Delegates unanimously in 2019 (HB 848).

PLEASE enter a favorable report for HB 858. Let's get it passed this year!!!

**Senate of Maryland
2020 Regular Session**

SB 249 Third Reading (SB) Calendar No.22
Senator Cassilly et al
Courts - Documentary Evidence - Protective Order

(JPR)

On Third Reading

46 Yeas

0 Nays

0 Not Voting

0 Excused

1 Absent

Voting Yea - 46

Mr. President
Augustine
Bailey
Beidle
Benson
Carozza
Carter
Cassilly
Eckardt
Edwards

Elfreth
Ellis
Feldman
Gallion
Griffith
Guzzone
Hayes
Hershey
Hester

Hettleman
Hough
Jennings
Kagan
Kelley
King
Klausmeier
Kramer
Lam

Lee
McCray
Miller
Patterson
Peters
Ready
Reilly
Rosapepe
Salling

Serafini
Simonaire
Smith
Sydnor
Waldstreicher
Washington
West
Young
Zucker

Voting Nay - 0

Not Voting - 0

Excused from Voting - 0

Excused (Absent) - 1

Pinsky

Judiciary Committee

Bill/Resolution Number: HB 848

Vote Date: 3/12/2019

Voting Record - 2019 Session

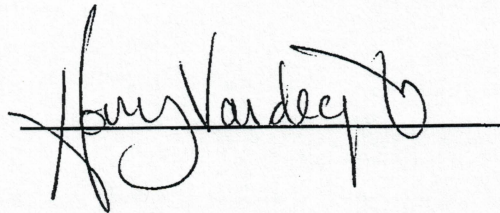
Final Action: FWA

Motion:

- Favorable
 Favorable with Amendment
 Unfavorable
 Withdrawn by Sponsor
 No Motion:
 Referred to Interim - Summer Study
 Re-referred to: _____

Name	Yea	Nay	Abstain	Excused	Absent	Amendment Numbers, Consent Bill Lists, Other
Clippinger, L., Chair	<i>Chair generally does not vote</i>					
Atterbeary, V., Vice Chair	✓					HB0848/312317/1
Malone, M.	✓					
Lewis, J.	✓					
Sydnor, C.	✓					
Moon, D.	✓					
Cardin, J.	✓					
Lopez, L.	✓					
Grammer, R.	✓					
Bartlett, J.	✓					
Crutchfield, C.	✓					
McComas, S.	✓					
Pippy, J.	✓					
Hartman, W.	✓					
Watson, R.	✓					
Arikan, L.	✓					
Shetty, E.	✓					
Fisher, W.	✓					
Cox, D.	✓					
Davis, D.	✓					
Anderson, C.	✓					
Conaway, F.	✓					
Totals	21	0	0	0	0	

Committee Reporter:



Maryland House of Delegates
2019 Regular Session

HB 848 Third Reading (HB) Calendar No.50
Delegate McComas et al
Courts - Documentary Evidence - Protective Order
On Third Reading

(JUD)

135 Yeas 0 Nays 1 Not Voting 0 Excused 5 Absent

Voting Yea - 135

Mr. Speaker	Cassilly	Guyton	Lisanti	Reznik
Acevero	Chang	Harrison	Long	Rogers
Adams	Charkoudian	Hartman	Lopez	Rose
Anderson	Charles	Haynes	Love	Rosenberg
Anderton	Chisholm	Healey	Luedtke	Saab
Arentz	Ciliberti	Hettleman	Malone	Sample-Hughes
Arikan	Clark	Hill	Mangione	Shetty
Attar	Clippinger	Holmes	Mautz	Shoemaker
Atterbeary	Conaway	Hornberger	McComas	Smith
Bagnall	Corderman	Ivey	McIntosh	Solomon
Barnes, B.	Crosby	Jackson	McKay	Stein
Barnes, D.	Crutchfield	Jacobs	Metzgar	Stewart
Barron	Cullison	Jalisi	Miller	Sydnor
Bartlett	Davis, D.E.	Johnson	Moon	Szeliga
Barve	Davis, D.M.	Jones	Morgan	Terrasa
Beitzel	Dumais	Kaiser	Mosby	Turner
Bhandari	Ebersole	Kelly	Otto	Valderrama
Boteler	Feldmark	Kerr	Palakovich Carr	Valentino-Smith
Boyce	Fennell	Kipke	Parrott	Walker
Bridges	Fisher, M.	Korman	Patterson	Washington
Bromwell	Fisher, W.	Krebs	Pena-Melnyk	Watson, C.
Brooks	Fraser-Hidalgo	Krimm	Pendergrass	Watson, R.
Buckel	Gaines	Lafferty	Pippy	Wells
Cain	Ghrist	Lehman	Proctor	Wilkins
Cardin	Gilchrist	Lewis, J.	Qi	Wilson
Carey	Glenn	Lewis, R.	Queen	Wivell
Carr	Grammer	Lierman	Reilly	Young, K.

Voting Nay - 0

Not Voting - 1

Kittleman

Excused from Voting - 0

Excused (Absent) - 5

Branch Cox Howard Impallaria Young, P.

Maryland Rule 2-402(a)(b) Scope of Discovery

Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

- a. Generally.- A party may obtain discovery regarding any matter, not privileged, including the existence, description, nature, custody, condition, and location of any documents or other tangible things and the identity and location of persons having knowledge of any discoverable matter, if the matter sought is relevant to the subject matter involved in the action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party. It is not ground for objection that the information sought is already known to or otherwise obtainable by the party seeking discovery or that the information will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. An interrogatory or **deposition** question otherwise proper is not objectionable merely because the response involves an opinion or contention that relates to fact or the application of law to fact.
- b. Alterations.- In a particular case, the court, on motion or on its own initiative and after consultation with the parties, by order may limit or alter the limits in these rules on the length and number of depositions, the number of interrogatories, the number of requests for production of documents, and the number of requests for admissions. The court shall limit the frequency or extent of use of the discovery methods otherwise permitted under these rules if it determines that
 1. **the discovery sought is unreasonably cumulative or duplicative or is obtainable from some other source that is more convenient, less burdensome, or less expensive;**
 2. **the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or**

- 3. the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the complexity of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues.**

RULE 2-403(a). PROTECTIVE ORDERS

(a) Motion. On motion of a party, a person from whom discovery is sought, or a person named or depicted in an item sought to be discovered, and for good cause shown, the court may enter any order that justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (1) that the discovery not be had, (2) that the discovery not be had until other designated discovery has been completed, a pretrial conference has taken place, or some other event or proceeding has occurred, (3) that the discovery may be had only on specified terms and conditions, including an allocation of the expenses or a designation of the time or place, (4) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery, (5) that certain matters not be inquired into or that the scope of the discovery be limited to certain matters, (6) that discovery be conducted with no one present except persons designated by the court, (7) that a deposition, after being sealed, be opened only by order of the court, (8) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way, (9) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.