

EQUITY RULES
OF THE
CIRCUIT COURT,
GARRETT COUNTY,
MARYLAND.

ADOPTED AUGUST 1st, 1898.

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EQUITY RULES
OF THE
CIRCUIT COURT
FOR
GARRETT COUNTY.

Rule 1.

PAPERS FILED IN PROPER PERSON.

Any Bill or Petition or writing filed and addressed to the Court, certified by a Judge or Justice to have been acknowledged before him by the person whose name is subscribed thereto, the Judge or Justice stating in the certificate that such person is known to him, shall have the same effect as if signed and filed by an Attorney of the Court, or as if delivered by the person to be filed.

Rule 2.

WITHDRAWAL OF EXHIBITS.

A complainant or defendant, on giving his receipt to the Clerk for the same, may obtain any exhibits filed and referred to in the bill, petition or answer, if he shall require the same for the purpose of proving them under a commission issued to take testimony in the cause or in any other mode prescribed in the case, upon an order from the Court or from a Judge.

Rule 3.

COMMISSION TO TAKE TESTIMONY

Commissions issued for taking testimony within the United States, shall be returned within four months from the day of their date, and if not so returned, a rule or order may be obtained for the return thereof by such day as shall be limited; or on application, such commission shall be declared void and a new commission issued, or other order, as may appear proper; provided, that when such commission shall not be so returned, it shall, *prima facie*, be considered the fault of the party who had the carriage of the said commission. Where a commission shall not be issued within twenty days from the date of the order or agreement for the same, the party applying for it shall be subject to the rule for further proceedings hereinafter mentioned. Other commissions for taking testimony shall be subject to the special order of the Court in particular cases.

Rule 4.

DECREE OF PARTITION AND DOWER.

No final decree of partition or of dower shall be made on the report of commissioners, unless such report shall have been filed and shall have lain in the office for the period of thirty days, unless otherwise provided for by statute, or unless the parties shall have certified in writing their approbation of the report.

Rule 5.

DECREE ON AWARD.

On motion or application, a decree will be passed upon any final award rendered by the referees appointed by

the rule of Court, and with the consent of the parties, provided, such award shall have been filed and docketed and shall have lain in Court for thirty days, and that no exception shall have been made thereto.

Rule 6.

HEARING OF CAUSES &C.

SECTION 1. Whenever a cause is ready for hearing or there be any question which under the practice of Courts of Equity in this State either party is entitled to have heard, the Court will, on written application, fix a time for such hearing without regard to the numerical order on the docket.

SECTION 2. Each side will only be entitled to one hour and a half for the oral argument, unless the time be extended before the argument is commenced.

SECTION 3. In all cases, unless otherwise ordered by the Court, briefs must be filed at the time of the hearing or within five days thereafter, in which reference shall be made to such portion of the pleadings and evidence as the parties may desire to bring to the special attention of the Court and such authorities shall be cited as may be deemed to be relevant.

Rule 7.

ABSENCE OF SOLICITOR.

The absence of the solicitor, except in cases of sickness or upon professional business, or of a party appearing without council, shall not be considered as a ground of continuance or postponement; and when two or more solicitors appear for any party, the attendance of one solicitor or his

ability to attend shall be sufficient to prevent a continuance or postponement on account of the absence for any cause whatsoever of the other solicitor.

Rule 8.

SERVICE OF RULES AND ORDERS.

No party nor his solicitor shall be bound to take notice of any rule or order made and docketed either in term or during vacation, relative to any suit, unless a copy of such rule or order be served on said party or his solicitor, as shall be by the Court especially directed.

Rule 9.

RATIFICATION OF SALES.

SECTION 1. No sale of real property under a decree or order of this Court shall be finally ratified and confirmed, until public notice of the report of such sale shall have been inserted in some newspaper published in Garrett county, or as shall be directed by the Court, unless the parties shall consent in writing to a final ratification without notice.

SECTION 2. No final ratification of any sale made by a trustee under a decree in equity, of any property in which an infant or infants are in anywise interested, shall be made by consent of parties. The ratification shall take place only upon the usual notice published in one or more newspapers, as the Court may by its order direct.

Rule 10.

TRUSTEES' COMMISSIONS.

SECTION 1. On sales under decrees or orders of this Court, the following allowances shall be made to Trustees:

On the first 300 dollars, 8 per centum \$24.00 \$						
" second	300	"	7	"	"	21.00 45.00
" third	300	"	6	"	"	18.00 63.00
" fourth	300	"	6	"	"	18.00 81.00
" fifth	300	"	5	"	"	15.00 96.00
" sixth	300	"	5	"	"	15.00 111.00
" seventh	300	"	4	"	"	12.00 123.00
" eighth	300	"	4	"	"	12.00 135.00
" ninth	300	"	4	"	"	12.00 147.00
" tenth	300	"	4	"	"	12.00 159.00

and three per cent on all sums above three thousand dollars, besides an allowance for all expenses except personal.

SECTION 2. The above may be lessened in case of negligence at the discretion of the Court.

SECTION 3. Whenever a Trustee or a party authorized under a power in a mortgage shall advertise mortgaged premises under an order or decree of this Court or under said power, and the amount due is paid before sale, the Trustee or such other person shall be allowed half commission on the amount due and the said allowance shall accordingly be paid. Provided that in case of advertisement under a power of sale in a mortgage reasonable notice is given of the intention to sell and no undue advantage has been taken of the owner of the property.

Rule 11.

ALLOWANCE IN LIEU OF DOWER.

The allowance to a widow in lieu of her right of dower in land sold under decrees shall be as follows, having due regards to her health and condition:

If she be under 40 years, not more than	1-7
If above 40 and under 45 " " "	2-15
If above 45 and under 51 " " "	1-8
If above 51 and under 56 " " "	1-9
If above 56 not less than	1-10

*Rule 12.***ALLOWANCE TO TENANT BY CURTESY.**

The allowance to a healthy tenant by curtesy in land sold under a decree shall be as follows:

If he be under 30 years, not more than				3-8
If above 30 and under 40	"	"	"	5-16
" " 40	"	"	50	" " 3-16
" " 50	"	"	60	" " 2-16
" " 60	not more than			1-9

*Rule 13.***ANSWER TO CROSS BILL.**

When a cross bill shall be filed, the defendant or defendants to the first bill shall answer thereto, before the defendant or defendants to the cross bill shall be compelled to answer such cross bill.

*Rule 14.***PAPERS SWORN TO OUT OF STATE.**

All bills, answers and other papers required to be sworn to out of the State, will be received if sworn to before a Justice, certified to be so by a Prothonotary or Clerk of a Court under his official seal, or before a Judge of any Court whose official capacity shall be certified by the Clerk of his Court under seal of office, or before a Mayor or Notary Public.

*Rule 15.***AFFIDAVIT OF NON-RESIDENCE.**

An affidavit of the non-residence will be required before any decree against a non-resident not appearing will be passed.

Rule 16.

AUDITOR'S PROCEEDINGS.

When a matter shall be referred to the Auditor of the Court to examine and report thereon, he shall assign a day and place therefor, and give reasonable notice to the parties or their solicitors, and if either party shall fail to attend at the time and place, the Auditor may adjourn the examination of the matter to some further day, and must give notice thereof to the parties or their respective solicitors, expressing therein, that in default of appearance of them, or any of them, at the time and place, the Auditor will proceed ex parte, and accordingly upon such default he shall proceed to examine the matter and report to the Court in order to have such proceedings as the Court shall deem right.

Rule 17.

DEPOSITS OF MONEY PAID INTO COURT.

All deposits of money and payments into Court shall be made upon the order of the Court, or Judge thereof, in one of the banks in Garrett county, and the money shall be deposited in one of the said banks by the Clerk, who shall give his receipt therefor to the party, and the said Clerk shall require an account to be immediately opened at the bank on receiving the deposit with the case in which said money shall be paid or deposited, and the Clerk shall open a like account in a book to be kept by him, in which he shall procure the entries to be made by the bank of the money deposited to the credit of the cause and of said account. No money deposited or paid into Court as aforesaid, shall be paid out except under the order of the Court or of a Judge thereof, which shall authorize the Clerk to draw a

check upon the bank, payable to the order of the applicant, and the receipt of the applicant for the said check shall be taken by the Clerk on the account in his book aforesaid, in which account the Clerk shall copy all the orders of the Court or of any Judge as aforesaid, for payments, and the orders and checks aforesaid shall be delivered to the bank as the only vouchers to authorize the bank to make the payments aforesaid. The Clerk shall keep an alphabetical index to said book. The Clerk shall deliver a copy of this rule to the bank in which the deposits shall be made.

Rule 18.

ANNUAL REPORTS OF FIDUCIARIES.

SECTION. I. All guardians, receivers, committees of lunatics or idiots, trustees and other fiduciaries appointed by this Court, or under its control and jurisdiction, shall file with the Clerk at least once in every year a report or statement under oath of their guardianship or other trust specifying fully and clearly the kind, character, and nature of each investment held and the amount of cash on hand remaining uninvested. At the time of filing the report or statement hereinbefore required, the guardian, receiver, committee, trustee or other person, shall produce before the Clerk (or such other person as the Court may designate, when for special reasons that be deemed proper) the bonds, stocks, securities and other evidences of investment held by him, and a certificate of the same date from the bank or other place of deposit, in which said cash is kept, of the amount of money on deposit to the credit or order of said fiduciary. And the Clerk shall lay the said report or statement before one of the Judges, with a certificate of the several securities produced before him, or the non-production of the same, as the case may be.

SECTION. 2. The Clerk shall keep a record of all continuing trusts in this Court in which shall be kept entries of the dates of filing reports, certificates, etc., required by the preceding Section, as well as such other matters as shall be necessary to keep the Court informed about such trusts. He shall furnish each person to whom this rule is applicable a copy of it, and shall report to the Court all refusals or failures of fiduciaries to comply with it.

He shall be allowed out of the trust funds reasonable compensation for his services, to be fixed by the Court, unless regulated by statute.

Rule 19.

TRUSTEES' RECEIPTS.

Original receipts and acquittances given to trustees and lodged for record in the Clerk's office, shall be returned to the said trustees after they shall have been recorded.

Rule 20.

RATIFICATION OF AUDITOR'S REPORT.

SECTION 1. When any report of the Auditor of this Court shall have been filed, and lain in Court fourteen days, the Court will, on application, act on the same.

SECTION 2. And it shall be the duty of the Clerk as soon as any report of the Auditor shall have been filed, to fix up at some conspicuous place in his office, the titling of the case as it stands upon the Docket of the Court, and number of the case, and the time when such audit will be ready for ratification under this rule.

Rule 21.

NO OFFICER OF COURT TO BECOME SECURITY.

No officer of this Court, whether Clerk, Solicitor,

Auditor, or Sheriff, shall become security upon any trustee's bond, injunction bond, or any other bond, to be filed in this Court.

Rule 22.

CHANGE OF NAME.

SECTION 1. Upon petition filed in this Court for the change of name of any person under the provisions of the Code of Public General Laws, the Court will pass an order nisi upon said petition which said order shall declare that the Court will on a certain day to be named in said order nisi, proceed to pass a final order and decree that the name of the petitioner or of the person on whose behalf said petition is filed, as the case may be, shall be changed as prayed in said petition unless cause to the contrary shall be shown on or before said day named in said order nisi, provided, however, that before it shall proceed to pass such final order and decree on such petition, the Court shall be satisfied that notice of the substance and object of such petition warning all persons to show cause to the contrary, if any they have, why the prayer of said petition should not be granted has been published in some newspaper printed in Garrett County once a week for three consecutive weeks before the day mentioned in said order nisi.

SECTION 2. In cases in which objection shall be made or cause shown by any person or persons against granting the prayer of such petition on or before the day named in said order nisi, the said objections shall be set down for hearing at the earliest practicable day and if upon such hearing the objections be sustained the petition shall be dismissed, but if not, the decree shall be passed as prayed; provided the Court shall be satisfied that the rule of Court has been complied with and that the prayer of the petition should be granted.

SECTION 3. The Court may make such provisions with reference to costs as it shall deem equitable.

Rule 23.

CHANCERY PAPERS—HOW OBTAINED.

The Clerk of this Court shall collect from the solicitors of this Court, or from the persons who may have the same in possession, all chancery papers whatever, belonging to the Court; and shall hereafter permit no chancery papers whatever to be taken out of his office without an order of Court or a Judge thereof; but shall permit all solicitors of the Court to examine the same in his office, and shall furnish a copy of any paper or papers that may be required; but the Clerk may deliver chancery papers to the Auditor when he desires to make an audit thereon; or to the standing Examiners, or the Examiner agreed upon to take testimony in the cause; and it shall be the duty of the Auditor and Examiner to return the same to the Clerk as soon as he is done with them.

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*ORDERED*, that the foregoing rules be, and they are hereby adopted for the government of the proceedings in the Circuit Court for Garrett County, in addition to the general equity rules adopted by the Court of Appeals of Maryland and statutes regulating the practice and proceedings in Courts of Equity in this State, and that they shall be of force and effect in said Court, from and after the first Monday of August, A. D. 1898, and that all existing rules of said Court, or parts of rules, in any wise inconsistent with the rules hereby adopted, be, and the same are hereby, rescinded.

A. HUNTER BOYD,  
EDWARD STAKE,  
DAVID W. SLOAN.