

Appeals

Several of the preeminent appellate lawyers in Maryland practice at Brown, Goldstein & Levy. Mel Sykes is widely regarded as the dean of the Maryland appellate bar. He is a Fellow of the American Academy of Appellate Lawyers and is one of just two lawyers chosen as Maryland "Super Lawyers" for appeals in each of the past three years. Mel has argued more than 200 appeals spanning many areas of law. Andy Levy is co-editor of the leading treatise on Maryland appeals, "Appellate Practice for the Maryland Lawyer," now in its third edition. Chris Brown, who has argued three cases before the United States Supreme Court, is an emeritus professor at the University of Maryland School of Law and the author of several articles on the Maryland appellate courts.

Representative Cases

United States Court of Appeals for the Fourth Circuit

- *NISH v. Cohen*, 247 F.3d 197 (4th Cir. 2001) - Randolph-Sheppard Act case. Held that the Act's priority for blind operators of vending facilities applies to military mess halls.
- *Canada Life Assurance Co. v. Estate of Lebowitz*, 185 F.3d 231 (4th Cir. 1999) - ERISA case. Affirmed recovery on \$500,000 insurance policy on the life of a former U.S. Bankruptcy Judge who had returned to private practice and died before expiration of conversion period and while not yet covered by another policy. Held that required notice of right to convert not adequately given.
- *Cane v. Worcester County*, 35 F.3d 921 (4th Cir. 1994) - creation of single-member districts to comply with Voting Rights Act and give black voters access to election system.

Other United States Courts of Appeals

- *NISH v. Rumsfeld*, 348 F.3d 1263 (10th Cir. 2003) - Randolph-Sheppard Act case. Held that the Act's priority for blind operators of vending facilities applies to military mess halls.

Court of Appeals of Maryland

- *Hoffman v. Stamper*, 385 Md. 1, 867 A.2d 276 (2005) - Fraud, conspiracy, and Consumer Protection Act case against real estate speculator, appraiser, and mortgage lender in "flipping" schemes. Affirmed substantial compensatory economic damages; reversed Court of Special Appeals remand for further consideration of trial court's award of \$195,591 attorneys' fees; and remanded for further proceedings as to non-economic damages for one plaintiff, and punitive damages for all plaintiffs (which the trial court had withdrawn from the jury as to three defendants).
- *Georgia-Pacific Corp. v. Pransky*, 369 Md. 360, 800 A.2d 722 (2002) - Asbestos case. Affirmed judgment of \$9,188,000 in favor of "bystander" who contracted mesothelioma from brief exposure to asbestos containing joint compound used in remodeling basement. Statutory cap on non-economic damages did not apply because exposure to asbestos and inhalation of asbestos occurred before the cap was enacted.
- *(Keswick) Home for Incurables of Baltimore City v. University of Maryland Medical System Corporation*, 369 Md. 67, 797 A.2d 746 (2002) - Interpleader case involving claims of Keswick Home and University of Maryland Hospital to a testamentary trust amounting to approximately \$30,000,000 left to Keswick to construct a new building for "white patients who need physical rehabilitation," but if the terms of the bequest were "not acceptable" to Keswick, then to the University of Maryland Hospital without any racial restrictions. The Court of Appeals reversed the lower court and struck the discriminatory condition and awarded the corpus to Keswick; to give effect to the alternative disposition would have given force to the illegal condition, which the Court would not do.
- *Mayor and City Council of Baltimore v. Ross*, 365 Md. 351, 779 A.2d 380 (2001) - Employment law case. Reversed summary judgment against employee claiming right under governing legislation to preferential re-employment after her position was abolished.

- *Matthews v. Amberwood Associates Ltd. Partnership*, 351 Md. 544, 719 A.2d 119 (1998) - Tort case. Duty of landlord to social guests injured by pit bull in tenant's apartment. Judgment of Court of Special Appeals reversed, and judgment for plaintiffs reinstated - \$5,580,850 for wrongful death, \$354,147 in survival action; judgment for defendant notwithstanding verdict on claim for emotional distress of mother of child killed by pit bull reversed and judgment on verdict for \$350,000 (the statutory cap on claims for non-economic damages) on that claim ordered by Court of Appeals.
- *Chesapeake and Potomac Telephone Company of Maryland v. Director of Finance for Mayor and City Council of Baltimore*, 343 Md. 567, 683 A.2d 512 (1996) - Tax case, statutory interpretation. Sustained position argued as special counsel for Baltimore City: "gross sale price" of "sales for consumption" of electricity, on which tax was based, included charges that did not vary according to the amount of electricity consumed.
- *U.S. Gypsum Co. v. Mayor and City Council of Baltimore*, 336 Md. 145, 647 A.2d 405 (1994) - Jury awarded economic damages of \$17,208,807 against three defendants for cost of asbestos removal. Two defendants settled. Compensatory damages of \$8,333,183 against third defendant affirmed. Numerous legal issues including extent of manufacturer's duty to warn even after sale, chargeability of manufacturer with knowledge of "state of the art," and various evidentiary issues.
- *Richwind Joint Venture 4 v. Brunson*, 335 Md. 661, 645 A.2d 1147 (1994), aff'g in part, rev'g in part 96 Md. App. 330, 625 A.2d 326 (1993) (Tort case. Set the legal standard for landlord liability for the injuries of children poisoned by lead paint)
- *In re Mack*, 329 Md. 188, 618 A.2d 744 (1993) - Established Maryland procedures for withdrawing nutrition from dying person.
- *Marr v. Langhoff*, 322 Md. 657, 589 A.2d 470 (1991) - Dispute between legal professional service corporation and former shareholder over fee received after shareholder's departure. Reversed lower courts and awarded entire disputed contingent fee of \$812,027 to departed shareholder.
- *Board of Trustees of Employees' Retirement System of the City of Baltimore v. Mayor and City Council of Baltimore City*, 317 Md. 72, 562 A.2d 720 (1989) - Constitutional law case. Court adopted position argued as special counsel for Baltimore City sustaining ordinances requiring that City's Retirement Fund divest its holdings in companies doing business in South Africa. Issues include: right of individual members of retirement fund to intervene, permissibility of delegation of legislative power, impairment of contract, federal preemption, intrusion on federal government's foreign policy powers, and scope of the interstate commerce clause.

Court of Special Appeals of Maryland

- *Weston Builders and Developers, Inc. v. McBerry, LLC*, 167 Md. App. 24, 891 A.2d 430 (2006) - Real property, contract, and civil procedure case. Judgment for developer reversed in suit by builder for specific performance of contract to sell building lots. Developer moved for dismissal of appeal as moot because lots sold to new purchaser at higher price and no appeal bond had been filed to stay execution of trial court judgment. Held, new purchaser took subject to builder's lis pendens, which persisted through appeal even if no appeal bond was filed. Trial court's conclusion that developer's suit was barred by accord and satisfaction also reversed.
- *Brooks v. Euclid Systems Corp.*, 151 Md. App. 487, 827 A.2d 887 (2003) - Securities case. Held that issuers of private-placement/unregistered securities cannot be vicariously liable for any intentional or negligent misrepresentation that an employee of a broker-dealer made when neither the broker-dealer nor the employee was an actual or apparent agent of issuers.
- *Benadom v. Colby*, 81 Md. App. 222, 567 A.2d 463 (1989) - Trust case. Reversed trial court's interpretation of trust. Ruled that under clause of trust giving trustees the power to interpret the trust and decide issues of law, the decision of the trustees should be affirmed even if the court would have decided the issue differently, unless the decision of the trustees is arbitrary and capricious.
- *Legal Aid Bureau, Inc. v. Bishop's Garth Associates Ltd. Partnership*, 75 Md. App. 214, 540 A.2d 1175 (1988); *Legal Aid Bureau, Inc. v. Farmer*, 74 Md. App. 707, 539 A.2d 1173 (1988) - Sanctions against Legal Aid attorneys reversed in these two cases. Court spelled out applicability of Md. Rule 1-341. See also the similar ruling in *Needle v. White, Mindel, Clarke and Hill*, 81 Md. App. 463, 568 A.2d 856 (1990), also successfully argued by Mr. Sykes.

Other States' Appellate Courts

- *Kashmiri v. Regents of the University of California*, 156 Cal. App. 4th (2007) - Contract case. Affirmed \$34 million judgment (\$42 million with post-judgment interest) against university for breach of contracts with students when it raised one fee after promising to hold it constant and raised another after billing students for a lower price.

Publications

- Andrew D. Levy, co-editor, Appellate Practice for the Maryland Lawyer: State and Federal, 3rd ed. (MICPEL 2008)
- C. Christopher Brown, "A Search for Clarity and Consistency in Judicial Process: The Maryland Court of Appeals Decides Whether to Change Common-Law Rules," 62 Md. L. Rev. 599 (2003).
- Dana W. McKee, "Motions Practice in the United States Court of Appeals for the Fourth Circuit," Appellate Practice for the Maryland Lawyer (Paul Mark Sandler & Andrew D. Levy eds., MICPEL 2008).

Mel Sykes

Andy Levy

Chris Brown

Andy Freeman

Dana McKee

Joe Espo