No. 26- 83

IN THE

Supreme Court of the United States

GARY PISNER,

Petitioner,

v

ATTORNEY GRIEVANCE COMMISSION OF MARYLAND

Respondent.

On Petition for a Writ of Certiorari to the

Maryland Supreme Court

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the court that has jurisdiction over lawyer disciplinary matters can issue an opinion containing finding of facts and conclusions of law relating to disbarring an attorney after refusing to address extensive, constitutionally mandated due process deficiencies
2. Whether the court that has jurisdiction over lawyer disciplinary matters can use finding of facts and conclusions of law generated by a lower court or administrative entity, in a disbarment proceeding, after that lower court or administrative entity either refuses to address extensive constitutionally mandated due process deficiencies or claims that it lacked the jurisdiction to cure the referenced constitutionally mandated due process deficiencies and nevertheless generates a constitutionally defective product
3. Can a court assign and use a finding of facts and conclusion of law of a state entity when there are unaddressed, outstanding related prosecutorial misconduct vindictive prosecution and other issues related to that state entity?
4. Must a lawyer disciplinary proceeding address all Constitutional Due Process issues before the evidentiary proceedings that were raised at the start to avoid interjecting false and prejudicial material, which could undermine constitutional rights and procedural remedies in the future?

I. PARTIES TO THE PROCEEDINGS

Petitioner:
Gary Pisner (hereinafter "Pisner") was the respondent in the Maryland Supreme Court district court and is the petitioner in this Court.
Respondent:
Attorney Grievance Commission of Maryland (hereinafter "Bar Counsel") was the Petitioner in the Maryland Supreme Court respondents in this Court:

II. CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 29.6 of this Court's Rules, petitioner Gary Pisner states it has no parent company, and no publicly held corporation owns 10% or more of its stock.

III. RELATED PROCEEDINGS

There are three ongoing proceedings related to this matter:

- Petition for a Writ of Certiorari before the United States Supreme Court No. 25-743 related to courts issuing disbarment orders that refuse to address multiple due process, based on a claim that lawyers, in disbarments, do not have constitutional due process because it is a Maryland State Court matter only.
- Fourth Federal Circuit case No.25-1262, where the court is now addressing the district 2025,court's remand of the Maryland Supreme Court, which was based on Bar Counsel's arguments that in lawyer disciplinary proceedings lawyers are not constitutionally protected by due process; constitutional issues are not Federal Questions; therefore, the federal courts have

no jurisdiction; the third argument is that the matter is moot because of the March 5, 2025, order; therefore the federal courts lack jurisdiction over the constitutional matters, which the state court, as in this instance, refused to hear.

- In the District of Columbia Court of Appeals, there is a disbarment proceeding DDN: 2025-D036, which is a proceeding that is based on a reciprocity agreement between the District of Columbia Bar and the Maryland Bar.
- The Maryland Supreme Court issued n order in case AG-0023-2023 disbarring Pisner, but the opinion that is tied to the March 5, 2025 order was not issued until July 14, 2025; the opinion issued on July 14, has many factual and legal errors; therefore, Pisner will file a Motion for Reconsideration, within the thirty-day period to respond, to correct those errors and omissions.

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Petitioner respectfully petitions for a writ of certiorari to review the appropriateness of the Maryland Supreme Court's opinion reating to an order disbarring Pisner, where the Maryland Supreme Court refused to hear any constitutional due process deficiencies before issuing its order, as explained further below,

V. OPINIONS BELOW

The July 14, 2025, opinion issued 135 days after the Maryland Court issued a defective disbarment order, which, a Petition is before this Court, which has related absence of due process and Rehearing order of August 20, 2025, issued 168 days after the court issued a disbarment order in case for which review is sought is Attorney Grievance Commission of Maryland v. Gary Pisner SCM-AG-0023-2023.

VI. JURISDICTION

Petitioner (hereinafter "Pisner") was disbarred under an order issued by the Maryland Supreme Court on March 5, 2025; an opinion was issued 135 days, later on July 14, 2025. The record supported a petition for rehearing, which corrected the factual errors in the opinion. On August 20, 2025, the Maryland Supreme Court issued an order that rejected the petition's arguments. Pisner applied to this Court for a sixty-day extension to file his petition, which was granted.

With the Court granting a sixty-day extension (Application 25A516); the statutory filing date, with extension, is on Saturday, January 17, 2026; the first business day for this Court is Tuesday January 20, 2026: The Monday being a Federal Holiday. A 60 day extension was granted to correct the petition on Aprill 27, 2026.

VII. CONSTITUTIONAL PROVISIONS

A. Constitutional Provisions.

U.S. Const. amend. V

No person shall ... be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

U.S Const. amend. XIV.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

VIII. STATEMENT OF THE CASE

A. Background

1. Where did the money go?

This matter relates to one trust: the Marion E. Pisner Trust, and two estates: the Marion E. Pisner Estate and the Norman A. Pisner Estate.

In 2008, the grantor Marion Pisner created a will and a trust shortly before her death a few weeks later in January 2009.

The will named two administrators, Pisner and Marla Rubinstein (hereinafter "Rubinstein").

The will required the administrators to pay the debts of the estate and thereafter to transfer the assets of the estate to the trust.

An accounting firm oversaw the estate.

The Trust document named two CoTrustees, i.e., Pisner and Rubinstein.

The Trust document named two beneficiaries, i.e. Pisner and Rubinstein.

Six real properties were divided equally, with three properties for each beneficiary.

The remaining cash from accountants, approximately $138,000, which remained after the estate settlement, were in two accounts, one containing $36, 000 and the other containing $128,000 were split equally with the rest of the $28,00 going

into a new bank account managed by Rubinstein (see Appendix C).
Rubenstein inherited the Granter's house, so she had the documents, including the stocks and bonds, so she managed stock, which was distributed equally. Rubinstein distributed the bonds, which were in the Granter's house, equally.
Bank statements and other documents were in the Granter's house. Mail, including bank stateements continued to be sent to Granters house, which Rubinstein now owned.
Over time, multiple houses in Baltimore, Maryland, were sold, and the proceeds were distributed at a loss and disbursed to each beneficiary equally. To accomplish these sales, Pisner had to lend $18,000 to the trust to pay parties in tax sales.
Another property was sold in the District of Columbia, and the proceeds were distributed equally, under the direction of two law firms.
The grantor's personal property was taken by Rubinstein. There were three properties in the District of Columbia.
There was a judgment for $70,000 and a capital loss, to be used at the closing of the trust.
In 2017, in a declaration of rights proceeding, Rubinstein demanded that a new trustee be named. This triggered a term in the trust document removing her as a beneficiary.

2. **The Gorman Street problem**.
   There were three properties remaining, plus a judgment for around $70,000 and a capital loss once the trust was closed.

There was $35.00 in the bank. Rubinstein had demanded that the Gorman Street property be sold. Immediately, the tenant was paid to move out, but Rubinstein decided she wanted the property for herself at a discounted price. To get the house, Rubinstein asked the Maryland Circuit Court to transfer the Gorman property to her. The judge appointed a substitute trustee. That triggered a clause in the trust document, and Rubinstein was no longer a beneficiary (see Appendix C). Apparently, Rubinstein entered an arrangement with the substitute trustee, and the remaining assets disappeared. Apparently, two of the properties were sold and the proceeds of the sales were divided between the substitute trustee and Rubinstein.

3. **The assets disappear.**
Beneficiary of the Trust opposed Robert McCarthy's appointment, because substitution of Trustees was prohibited by the Trust document, because of the language in the trust document Pisner had a fiduciary duty to protect the trust, so Pisner opposed Robert McCarthy's appointment and after a time Pisner became aware that the approximately one million in assets being held in trust for Pisner had vanished, so the substitute trustee was sued along with his two appointees. In addition, ethics complaints were filed against McCarthy, his son, who had refused to disclose the whereabouts of nearly one million dollars and who had made false statements to a judge in the estate case of Norman Pisner. *The*

Substitute Trustee instructed the Trust's counsel not to cooperate with Pisner.

B. Procedural History

Pisner, after discovering that the assets of the trust had disappeared and after both the substitute trustee, who had stated to the court in writing that neither the trust, nor the estates had any assets and Rubinstein refused to disclose what happened to the assets, and neither Rubinstein, nor the substitute trustee McCarthy would talk, Pisner sued Rubinstein in District of Columbia Superior Court because the assets that disappeared were almost entirely real property in the District of Columbia; McCarthy, the substitute trustee, and his accountant were sued in the Maryland federal court.. Pisner also filed ethics complaints against the substitute trustee and his accountant.

At this point Pisner knew that the assets of the trust and estate had disappeared and that property in D.C. was deeded to Rubinstein; Pisner had the court filings where McCarthy had argued that the matter of the trust and estate assets were moot because neither the trust , nor the estate had any assets: McCarthy had refused to supply any documents to Pisner, arguing that he opposed "fishing expeditions."

Rubinstein refused to respond to discovery by claiming that any document was irrelevant or in the possession of McCarthy. As for responding to

interrogatories, she claimed she could not remember.
Rubinstein, upon being sued, filed an ethics complaint against Pisner.
Apparently, Bar Counsel, relying on McCarthy's false statements and his accountant's false numbers he successfully convinced bar counsel that he was justified in taking the assets of the trust and the trustee's accountant used fabricated ledgers that covered his embezzlement and the McCarthy, the Substitute Trustee, was tasked with preparing a petition against Pisner using the accounting of the substitute trustee's numbers and cherry-picked documents, which he supplied.
In fact, Bar Counsel was so reliant on the Substitute Trustee McCarthy, ignoring the irrefutable evidence that the Substitute Trustee's accountant had committed extensive perjury, the same person who had prepared the numbers that Bar Counsel had included in the petition, was the same person who had committed perjury: McCarthy was very much aware of this and so was Bar Counsel (Appendix D): Bar Counsel hid this exculpatory evidence.
This is how the ethics issues against Pisner began and because of McCarthy's 'participation, and because of his motives, there were serious due process problems, including lack of notice because of the haphazard language that McCarthy had included in the petition, the numbers cited in the petition were impossible and the source of the numbers was hidden;

language allegedly quoted, such as "without merit" did not exist anywhere—it was simply made up by McCarthy, exculpatory information was not disclosed because Bar Counsel had not reviewed the record adequately; the discovery responses of Bar Counsel made no sense because what they did was simply cite to the cherry-picked documents that the substitute trustee had supplied to them; finally, neither Rubinstein, nor McCarthy had complied with Subpoena Duces Tecum, so there was no information. The mixing of a complaint of the substitute trustee's unsupported grievances with those of Rubinstein as interpreted by McCarthy created a mess that was not even consistent with statements that Rubinstein had made in earlier proceedings.

In Circuit Court, Pisner attempted to get the court to deal with the mounting due process issues, but the court ruled that it lacked the jurisdiction to rule on those due process issues and that was something for the Maryland Supreme Court.

In the hearing in the circuit court, it became clear how a trust, whose assets were almost entirely real property, became a half-million dollar phony offset to cover for the disappearance of the trust assets.

McCarthy testified he had violated Maryland law, but that it would have been unfair to Rubinstein because of the amount of money Pisner had taken.

The substitute trustee, when asked where the numbers came from, testified he did not know, but he signs things anyway because he trusts his accountant.

It is also notable that McCarthy had taken around $75,000 dollars in compensation and that around $200,000 that existed when McCarthy was the trustee, was missing.

He also admitted that he had executed a sham transfer of real property because McCarthy and Rubinstein were being sued.

The accountant contradicted the substitute trustee by testifying she had been instructed to treat anything that was not specifically associated with Rubinstein as a distribution to Pisner. This included things like the $135,000 estate taxes, the stocks and bonds, which Pisner never controlled; the personal property, which Pisner had never seen; the final expenses; the money that went into Rubinstein's trust account; the payment for lawyers, and the accountant.

Once the case was transferred to the Maryland Supreme Court, Pisner petitioned the court to address the due process issues in the case, but it refused. And Pisner remanded to the Maryland Federal District court for it to hear the due process issues.

Bar counsel moved for remand back to the Maryland Supreme Court. And while the matter was before the Federal court, Bar Counsel quickly scheduled a hearing with the Maryland Supreme court, while the matter was still under review by the Federal Court and on March 5, 2025, an order Disbarring Pisner was issued: The due process matter is before the Federal 4^{th} circuit court.

On May 4, 2025, Pisner applied to this Court, for a 60-day extension from March 5, 2025, regarding the constitutionally defective disbarment order, 137 days after the disbarment, for less than clear reasons, the Maryland Supreme Court issued an opinion on July 17, 2025 (See Appendix A).

.The opinion of July 17 was totally inconsistent with the record,so a Petition for Rehearing was filed (see Appendix B). There were errors that were obviously identified in (Appendix B), There were impossible allegations in the opinion such as Pisner was the custodian of the trust documents, which the Maryland Circuit Court had concluded was false (see Appendix C) and that there had been false testimony by the complainant. Moreover, there was evidence that the person who had prepared the numbers had committed perjury in the past (see Appendix D) and her participation was concealed by the Respondent.

The Maryland Court did not correct the errors that were contrary to the record, rather the Court dismissed the Petition for Rehearing, without explanation (Appendix A1).

Also, the Respondent had argued in the 4^{th} federal circuit court that lawyers in disciplinary matters need not be accorded constitutional due process: That matter is still before that court.

The court's opinion showed the effect or absence of procedural due process: New allegations that were lost in the confused petition, which are contrary to the record; misstatements of the law; references to a lack of evidence supporting certain facts that were clearly because of the refusal of the Respondent and the Respondent's witnesses to supply documents and respond to interrogatories and disclose exculpatory evidence. The Maryland Circuit Court blocked the disclosure of anything related to Pisner's complaints because of rules and statutes. Pisner included these complaints in ethics complaints against two of Bar Counsel's three witnesses.

Finally, we found that most of those confused, imaginary allegations originated from a person accused of embezzling funds from Pisner and an accountant who supplied numbers.

Agan- this exculpatory information was concealed by the present Bar Counsel.

It is unclear what the specifics are; we know that the present Bar Counsel signed the Petition that the proceeding was based on without verifying the facts in the Petition, but it appears that the prior Bar Counsel Lydia Lawless, Esq. who had engaged in unethical conduct and who negotiated an agreement where she would resign and keep her law license; therefore, it is likely that she would not be motivated to disclose anything. Pisner asked, and he was told that if he wanted information that he would have to take her to court.

IX. REASONS FOR GRANTING THE WRIT

A. Constitutional due process is an issue in any lawyer disciplinary case.

Legal scholars and courts have recognized that the practice of law is a right that, once acquired, deserves due process protection. In Ex Parte Burr 22 U.S. 529 (1824), for example, Chief Justice Marshall noted that: "[T]he profession of an attorney is of great importance to an individual, and the prosperity of his whole life may depend on its exercise. The right to exercise it ought not to be lightly or capriciously taken from him. "Justice Field, writing for the court, echoed this fundamental notion in Ex Parte Garland (71 U.S. 333 (1866)):

> The attorney and counselor being, by the solemn judicial act of the court, clothed with his office, does not hold it as a matter of grace and favor. The right that it confers upon him to appear for suitors, and to argue causes, is something more than a mere. Indulgence, revocable at the pleasure of the court, or at the command of the legislature. It is a right of which he can only be deprived by the judgment of the court, for moral or professional delinquency.

Due Process challenges in disciplinary proceedings also have a long history (see Ex Parte Bradley, 74 U.S. 364, (1868) involved a defense attorney, Bradley, who was summarily disbarred by the judge presiding over the trial of John Surratt for conspiracy in the Lincoln assassination. During the trial, Bradley and the trial judge, Fisher, engaged in a strenuous exchange of mutual insults. Shortly after the trial ended with a hung jury, Fisher got the last word in the dueling insults by ordering Bradley disbarred from the Supreme Court of the District of Columbia for "accosting [Fisher] ... in a rude and insulting manner." On review, the U.S. Supreme Court agreed with Bradley and issued a peremptory writ directing that Bradley be reinstated. In doing so, the Supreme Court also noted that the trial court's sua sponte disbarment violated Bradley's due process rights to prior notice and the opportunity to be heard.

That same term, the Supreme Court addressed notice and the opportunity to be heard in the disciplinary context directly in Randall v. Brigham (74 U.S. 523 (1866)) Randall had been disbarred by the defendant Massachusetts trial court judge for defrauding a client. In Randall the court stated that "[N]otice should be given to the attorney of the charges made and the opportunity afforded him for explanation and defense."

A century later, the U.S. Supreme Court returned to these twin concepts in In re Ruffalo 390 U.S. 544 (1968) Ruffalo was a reciprocal discipline case. The lawyer in Ruffalo handled personal injury claims against railroads. The Association of American Railroads filed charges against him with the president of his local bar association in Ohio, who was also local counsel for the Baltimore & Ohio Railroad. The gist of the charges going into the hearing was that Ruffalo had improperly solicited clients through a part-time investigator. After Ruffalo and the investigator had testified at the hearing, however, the bar prosecutor amended the charges to include one for "deception," contending that it was "morally and legally wrong" for Ruffalo to use a part-time investigator who also worked as an inspector for the Baltimore & Ohio (although not at the yards involved in Ruffalo's cases). Ruffalo objected, but the hearing panel allowed the amendment and Ruffalo was later disbarred by the Ohio Supreme Court primarily on the late-added charge. Ruffalo was also admitted to the Sixth Circuit, and it likewise disbarred him as a matter of reciprocal discipline. Ruffalo appealed the Sixth Circuit's disbarment order to the U.S. Supreme Court. The U.S. Supreme Court reversed. Noting that accused lawyers are "entitled to procedural due process"; the U.S. Supreme Court cited Randall in finding that Ruffalo had been denied notice and the opportunity to be heard in the original hearing that the Sixth Circuit had then relied on in disbarring him. Notice and the opportunity to be heard remain the dual touchstones. for assessing due process in disciplinary proceedings in both state and federal courts. So, based on centuries of precedence, much of which comes from the U.S. Supreme Court, federal due process considerations are a necessary element of any disciplinary proceeding.

One can talk about exclusive jurisdiction, but in fact, there is always concurrent jurisdiction in disciplinary proceedings for due process.

B. How these due process failures damage the courts.

So, we have the cause, which is this reflexive behavior of courts and those who are administratively associated with the court to use court appointees as consultants, no matter how irrational it is to those of us outside the legal ecosystem.

We can see in this case how this kind of behavior can promote criminal actions, due process failures, abuse by court appointees, ethical violations, biases, etc.

We can also see that timing is everything. You must address and mitigate due process problems before, not after the fact-finding concludes. If this is not done, the facts presented to the court that dispose of the matter will rely on alleged facts that may be defective because they were the product of procedural deficiencies.

We have clear evidence of vindictive prosecution, which despite the Bar Counsels effort to hide , we know that the author and the promoter of their case, was Pisner's court-appointed trustee,, who had been sued for embezzling the same trust assets, that Pisner had filed ethics complaint against and sued for embezzling the same assets.(see North Carolina v. Pearce 395 U.S. 711 (1969), but in this situation, it is even more absurd because the Bar Counsel, who was forced to resign, because of unethical conduct, had farmed out this ethics matter of Pisner, to a person who had embezzled funds from Pisner which was clearly covered up by fabricated accounting by his accountant who had unambiguously committed perjury by McCarthy's own admission and who had implicated McCarthy.

The notice in the petition was defective.

Given that the Bar Counsel had been forced to resign, her replacement, apparently failing to make a proper enquiry into the facts and law, simply signed the Petition that the prior bar Counsel had left, the replacement bar counsel was unaware of the fantasy that McCarthy had created to extricate himself from his own ethics problems.

Because of McCarthy's role , the replacement did not know where the allegations in its petition came from so he simply punted, he would simply cite to the entire cherry picked package that McCarthy had supplied, which supported nothing and the exculpatory evidence, such as the source of the numbers was the accountant who had committed perjury, the source of the petition was the person who had actually embezzled the funds. And who Pisner had filed an ethics complaint against. The interrogatories were not responded to because the replacement bar counsel had no idea what his predecessor had done and it was not in her interest to disclose anything, especially because she had, through counsel, negotiated an agreement where she would resign and retain her law license.

The confidentiality rule and statute, which prevented Pisner from impeaching Bar Counsel's witnesses was an added due process impediment because the court had forbidden

Pisner from impeaching both McCarthy and his Accountant for issues he had raised in his complaints, which was substantial.

C. The Due Process failures, in this case, were extreme.

- Bar Counsel engaged in behavior that is unconstitutional (according to the caselaw, this is a form of prosecutorial misconduct) in that Bar Counsel, after a discussion with McCarthy, exonerated McCarthy and permitted him to be the main source for an investigation into Pisner and made him the main author of the issued Petition.
- This means that the person who had been accused of numerous ethical violations and was sued, was put in charge of an investigation against the person who had sued him and who had filed an ethics complaint against him. Not surprisingly, this has led to numerous procedural and constitutional failures.
- The Petition gave inadequate notice: What appears to have happened is the petition is a "flow of consciousness" diatribe of McCarthy containing some real and some unreal statements. Pisner objected to the petition in his answer because of a lack of notice.
- Although Rubinstein had filed the complaint and had participated in the panel review hearing, it was McCarthy's related "flow of consciousness" complaints that predominated: This led to even more confusion.
- Bar Counsel had been served with discovery and apparently, because McCarthy had prepared the material for the petition, Bar Counsel's ability to respond to discovery was limited, so bar counsel had a limited, untimely, response to discovery.
- The listed exculpatory evidence identified was non-existent; even Md. Disciplinary R. 19-726(c),

the equivalent of the Brady Rule, was ignored by Bar Counsel.

- The Complainant, Rubinstein totally failed to respond to a subpoena Duces Tecum, but was allowed to testify at the investigative hearing, although a Motion for the Court to Issue a Rule to Show Cause had been filed against her. The same accountant that was sued for embezzling trusts funds and who an ethics complaint was filed because the accountant committed perjury; the same accountant that bar counsel relied on in the investigation and petition.
- McCarthy failed to respond to a subpoena Duces Tecum but was allowed to testify although a Motion for the Court to Issue a Rule to Show Cause had been filed against him. Pisner could not raise McCarthy's unethical behavior because McCarthy had been exonerated by Bar Counsel; therefore, MD Rule 19-707(b) applied, and the evidence was deemed to be confidential.
- In the administrative hearing to determine if a petition was warranted, Rubinstein gave totally contrary testimony that undermined the allegations in the petition which was confidential pursuant to MD Rule 19-707(b).
- There was evidence that McCarthy had concealed exculpatory documents during the investigation.
- Nothing that was filed in the ethics complaint or related to the ethics complaint filed against the accountant was admissible, even crimes that were disclosed in Pisner's complaint MD General Provisions Code (sec 5-517 (2024))

D. **What this shows us**,

The procedures used by the Maryland Court do not work. There is a requirement for

Constitutional due process.

The Maryland Supreme Court can issue an opinion, but it is worthless unless there is proper notice to allow one to prepare; there must be disclosure in the circuit court so one has a full picture of what is going on. So that one can prepare, and one can have evidence to defend oneself, there must be early review of potential prosecutorial misconduct, so this could determine if the prosecutor is reliable and honest.

Finally, there is a unique issue here in that the rules hobbled Pisner to such an extent that if one is dealing with a corrupt court appointee, who will be forced on hundreds of beneficiaries and wards just to be abused, that damages the court and as times the most vulnerable, who are stuck with that court appointee.

X. CONCLUSION

The petition for a Writ of Certiorari should be granted because the state of Maryland's new approach grants states, through legislation or rule making, a power only it reserves, exempting itself from limitations in its adherence to the U.S. Const. amend. XIV.

Moreover, timing is everything, so any law or rule, that postpones any due process review until after the fact finding merely corrupts the facts and clouds the process.

The underlying problem is that the Maryland Court's had a stake in the outcome, because Pisner had filed a suit and an ethics complaint against a Court Appointee, who Pisner alleged had embezzled funds, using an accountant who had an ethics complaint filed against her and due to the nature of ethics proceedings a jury was unavailable and, as a court appointee, the Maryland Bar could not act in a detached unbiased manner, especially because there were so many appointment.

This is an unusual situation, which his undermined the integrity of the Maryland Trust and Estates process. This Court needs to promulgate guidance to correct this.

Respectfully submitted,

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