

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

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JUSTINE BARRON,

*Petitioner,*

vs.

**PATRICIA TRIKERIOTIS**, Chief Court  
Reporter for the Circuit Court for Baltimore City,

*Respondent-Defendant,*

&

**HON. W. MICHEL PIERSON**, Administrative  
Judge for Baltimore City,

*Defendant.*

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**MEMORANDUM IN SUPPORT OF  
PETITIONER’S MOTION FOR SUMMARY JUDGMENT**

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## INTRODUCTION

For years, the Maryland Court of Appeals has sought to ensure the openness of the judiciary by making audio recordings of all trial-court proceedings available to the public. In 2016, the Court reaffirmed its commitment to that goal by re-codifying the public’s longstanding “Right to Obtain [a] Copy” of trial-court recordings in Maryland Rule 16-504(h). That Rule now expressly provides that the custodian of such recordings in every circuit “shall make a copy of [an] audio recording . . . available to any person upon written request.”

This case arises from the Baltimore City Court Reporter’s refusal to follow that Rule. On April 24, 2019, the Court Reporter’s office—which houses all local-court recordings—abruptly stopped processing requests for recordings from members of the public. The office sought to justify its new policy by relying on a recent “order” issued by the Administrative Judge for Baltimore City. But a *local* administrative order cannot override a *State* Rule—especially not one that confers substantive rights upon the general public. Moreover, the “order” that the Court Reporter’s office cited remains shrouded in mystery: the Administrative Judge has not identified his reasons or authority for issuing the order, nor has the Circuit Court posted that order publicly.

These events paint a disturbing picture—that of local court officials

seeking to stymie the State's goal of shining a light on the judiciary and, worse yet, seeking to do so in the dark. Mandamus is therefore necessary to compel these officials to comply with Rule 16-504(h) and to restore the transparency that the Rule is meant to foster.

## **FACTUAL BACKGROUND**

### **A. Maryland Rule 16-504**

Maryland Rule 16-503(a) provides that all circuit-court "proceedings before a judge in a courtroom shall be recorded verbatim in their entirety." Many circuit courts in Maryland, including the Baltimore City Circuit Court, comply with Rule 16-503(a) by recording all judicial proceedings electronically.

The public's right of access to those electronic recordings is governed by Rule 16-504. The Rule contains several subsections delineating the varying tiers of access to audio and video recordings and the limited restrictions that courts may place on that access.

This case concerns subsection (h) of Rule 16-504, which is entitled "Right to Obtain Copy of Audio Recording." That subsection provides, in relevant part:

*Generally.* Except (A) for proceedings closed pursuant to law, (B) as otherwise provided in this Rule, or (C) as ordered by the court, the authorized custodian of an audio recording shall make a copy of the audio recording or, if practicable, the audio portion of an audio-video recording, available to any person upon written request

and, unless waived by the court, upon payment of the reasonable costs of making the copy.

Md. Rule 16-504(h)(1).<sup>1</sup>

For the past several years, the Baltimore City Court Reporter’s office has complied with Rule 16-504(h)(1) by providing copies of audio recordings to any member of the public who requests them. Until recently, the office’s own website stated, “Maryland Rule 16-504 provides in part that upon written request and the payment of reasonable costs, the authorized custodian of an official recording shall make a copy of the audio portion of an audio-video recording, available to any person upon request.”<sup>2</sup> On April 24, 2019, however, the office sharply reversed course, abandoning its established practice of complying with Rule 16-504(h)(1). The office now permits only “parties and attorneys representing parties in [a] case” to purchase copies of audio recordings.<sup>3</sup>

### **B. Petitioner’s Request for an Audio Recording**

Petitioner is a Baltimore-based journalist and writer. *See* Affidavit of Justine Barron (“Barron Aff.”) ¶ 2. On April 17, 2019, she submitted a written request for a copy of an audio recording of a hearing that took place in open court in the fall of 2015. *See* Barron Aff., Ex. A (Email from Justine Barron to

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<sup>1</sup> The full text of Rule 16-504 is available at <https://perma.cc/G8UD-48AB>.

<sup>2</sup> *See* <https://perma.cc/5RSS-J52A>.

<sup>3</sup> *See* <https://perma.cc/B4AZ-LHYY>.



Patricia Trikeriotis). The Court Reporter's office responded to her request the following morning with an email stating, "Please fax a check/money order for the amount of \$40 and we will prepare your audio." Barron Aff., Ex. B (Email from Christopher Metcalf to Justine Barron). Petitioner, in turn, responded by emailing the office an image of the money order she planned to use to purchase the recording. Barron Aff., Ex. C.

On April 22, the office confirmed that it would accept Petitioner's money order and notified her that her requested recording would "be ready tomorrow." Barron Aff., Ex. D (Email from Christopher Metcalf to Justine Barron). On April 23, after Petitioner indicated that she would prefer to pick up the recording the following day, the office confirmed again that her recording would be waiting for her when she arrived. Barron Aff., Ex. E (Email from Christopher Metcalf to Justine Barron).

On April 24, however—the same day Petitioner was scheduled to retrieve the recording—the Court Reporter's office notified Petitioner that it no longer intended to provide her with a copy of the recording. A representative of the office emailed Petitioner to apologize for the sudden change, writing, "I'm sorry to say that the Circuit Court for Baltimore City just changed our policy regarding the purchase of [court recordings]." Barron Aff., Ex. F. The email noted that members of the public were still permitted to "review" court recordings at the

courthouse (by appointment), but that only parties to a case would thereafter be permitted to purchase audio recordings. *See id.* The email made no reference to Rule 16-504.

### **C. Administrative Order 2019-02**

Petitioner sought clarification regarding the basis for the new policy. Barron Aff., Ex. G. In response, the Court Reporter, Respondent-Defendant Patricia Trikeriotis, emailed Petitioner on April 25 to say that “the court has ordered that only parties, or counsel representing a party, are permitted to receive a copy of [court] recording[s].” Barron Aff., Ex. H. Ms. Trikeriotis cited Rule 16-504(h)(1), highlighting the Rule’s prefatory clause, which permits the custodian of circuit-court recordings to withhold a recording when “ordered by the court.” *Id.* In a follow-up email, Ms. Trikeriotis explained that the order was “not specific to [any] particular case, but rather a general order that only parties may receive copies of recordings.” Barron Aff., Ex. I.

Petitioner asked Ms. Trikeriotis for a copy of the order later that day but did not receive a response. Barron Aff., Ex. J. When Petitioner followed up on her request the following day, April 26, Ms. Trikeriotis responded by instructing her to reach out again for the order the following week. Barron Aff., Ex. K. Finally, on April 29—five days after the order had been emailed to Ms. Trikeriotis—Ms. Trikeriotis forwarded Petitioner a copy of the order. Barron

Aff., Ex. L.

The document emailed to Petitioner, which is entitled “Administrative Order 2019-02,” consists of a single sentence that reads as follows:

Pursuant to the terms of Maryland Rule 16-504(h)(1)(C), it is, this 24th day of April, 2019, ORDERED, that no copies of audio recordings maintained by the Office of the Court Reporter shall be made available to persons other than parties to the relevant proceeding or counsel to the relevant proceeding.

Barron Aff., Ex. M. The order was issued and signed by Baltimore City’s Administrative Judge, Defendant W. Michel Pierson.

Parties and attorneys to particular cases were unaffected by the order; they may still obtain copies of audio recordings from cases in which they participated. But to be able to hear that same audio footage, all other persons must make an appointment with the Court Reporter’s office to listen to the recordings at the courthouse itself, using court-provided equipment—which they may do only during business hours (8:30 AM to 4:30 PM) on weekdays. *See* Barron Aff. ¶ 18.

It is extremely burdensome for Petitioner to listen to courtroom recordings under the new restrictions imposed by Administrative Order 2019-02. Petitioner’s work and other appointments often restrict her ability to travel to the courthouse for lengthy periods during business hours on weekdays—the only times when members of the public are allowed to schedule appointments to view courtroom footage. *See* Barron Aff. ¶ 18. Moreover, because Petitioner is

physically disabled, she experiences difficulty sitting at the Court's computer terminals for extended periods of time. *See* Barron Aff. ¶ 19.

Since issuing Administrative Order 2019-02 two months ago, Judge Pierson has offered no public explanation for abruptly eliminating the public's right to obtain copies of court recordings. Nor has he identified his authority for issuing the order or described what procedures, if any, he followed in issuing it. The order has yet to be published, announced, or disseminated to the public or the media. Indeed, the Court's "Administrative Orders" webpage is currently under construction (as it has been for over three years) and includes no reference whatsoever to the April 24 order (or any other administrative order, for that matter). Instead, the page simply says, "COMING SOON."<sup>4</sup>

## **ARGUMENT**

Administrative Order 2019-02 is the sole justification the Court Reporter's office has cited for refusing to fulfill Petitioner's request for an audio recording under Maryland Rule 16-504(h)(1). That order, however, directly contradicts the mandatory language of Rule 16-504, and it was issued in excess of Judge Pierson's authority under state law. The Court should reject this effort to circumvent a binding obligation that the Court of Appeals has imposed on all

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<sup>4</sup> *See* <https://perma.cc/3ZLC-DWMG>.

circuit courts throughout Maryland. Because “there is no genuine dispute as to any material fact” and Petitioner is “entitled to judgment as a matter of law,” Md. Rule 2-501(a), summary judgment should be granted in favor of Petitioner.

**I. The Court Reporter’s Office Has Violated Maryland Rule 16-504 by Refusing to Fulfill Petitioner’s Request**

“A court of competent jurisdiction may issue a writ of mandamus in order to compel the performance of a non-discretionary duty.” *Wilson v. Simms*, 380 Md. 206, 217 (2004). In general, “a common law mandamus action is appropriate where ‘the relief sought involves the traditional enforcement of a ministerial act (a legal duty) by recalcitrant public officials.’” *Town of La Plata v. Faison-Rosewick LLC*, 434 Md. 496, 511 (2013) (citation omitted).

The plain language of Rule 16-504(h) imposes a non-discretionary duty on the Baltimore City Court Reporter—as custodian of the Court’s electronic recordings—to provide Petitioner with a copy of her requested recording. As noted above, the Rule states that “the authorized custodian of an audio recording *shall* make a copy of the audio recording or, if practicable, the audio portion of an audio-video recording, available to any person upon written request.” Md. Rule 16-504(h)(1) (emphasis added). The Rule’s use of the word “shall” demonstrates the Court of Appeals’ intent to create a mandatory duty, rather than to leave fulfillment of these requests to each recipient’s discretion.

*See Dove v. State*, 415 Md. 727, 738 (2010) (“As this Court . . . ha[s] reiterated on numerous occasions, the word ‘shall’ indicates the intent that a provision is mandatory.”); *Motor Vehicle Admin. v. Dove*, 413 Md. 70, 87 (2010) (“Under settled principles of statutory construction, the word ‘shall’ is ordinarily presumed to have a mandatory meaning.” (citations omitted)); *Murphy v. Smith*, 138 S. Ct. 784, 787 (2018) (“[T]he word ‘shall’ usually creates a mandate, not a liberty, so the verb phrase ‘shall be applied’ tells us that the district court has some nondiscretionary duty to perform.”).

Maryland Rule 1-201, which governs the construction of all other Rules, confirms that the word “shall” must be read to impose a mandatory duty here. Indeed, Rule 1-201 expressly states that “[w]hen a rule, by the word ‘shall’ or otherwise, mandates or prohibits conduct, the consequences of noncompliance are those prescribed by these rules” and “[i]f no consequences are prescribed, the court may compel compliance with the rule.” Md. Rule 1-201(a).

The pre-enactment history of Rule 16-504(h) further illustrates that the Court of Appeals sought to impose a mandatory duty on the custodians of court recordings. In 2013, the Rules Committee briefly considered amending the Rules to restrict the public’s ability to obtain such recordings. *See Standing Comm. on Rules of Practice & Procedure, 178th Report: Part I – Notice of Proposed*

*Rules Changes* (2013) (“*Standing Committee Report*”), at 7-8.<sup>5</sup> The Committee even presented the Court of Appeals with two alternative versions of the proposed Rule: one designed to preserve the public’s right to *obtain* copies of recordings and one that would have guaranteed only the right to “[l]isten to or [v]iew” those recordings. *See id.* at 110, 124-30. The current version of the Rule—which the Court of Appeals adopted in 2016—reflects a deliberate choice to protect the public’s “Right to Obtain Cop[ies] of Audio Recording[s].” Md. Rule 16-504(h). Under Administrative Order 2019-02, by contrast, “the right to obtain a copy of a recording has been changed to the right to listen [to] or view a copy.” *Standing Committee Report*, at 130 (summarizing the proposed version of Rule 16-504(h)(1) that the Rules Committee rejected).

For these reasons, Rule 16-504(h)(1) imposes on the Court Reporter’s office a non-discretionary duty to “make a copy of [an] audio recording . . . available to any person upon written request.” Ms. Trikeriotis violated that duty by failing to fulfill Petitioner’s written request for a copy of a court recording.

## **II. A Local Administrative Order Cannot Eliminate the Obligations Imposed by Rule 16-504(h)(1)**

The Court Reporter’s office purports to rely on Rule 16-504(h)(1)(C) as a basis for denying Petitioner’s request. As noted, that sub-provision creates a

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<sup>5</sup> A copy of the report is available at <https://perma.cc/6C7R-G8B3>.

narrow exception to a circuit-court custodian’s general duty to “make a copy of [an] audio recording . . . available to any person upon written request.” Under that exception, the custodian may restrict the public’s access to an audio recording when the restriction on access was “ordered by the court” in a particular case.

Here, the Court Reporter’s office has cited Administrative Order 2019-02 as a basis for invoking the “as ordered by the court” exception in Rule 16-504(h)(1)(C). But a circuit-wide “order” issued by a single administrative judge cannot trigger that exception. Such an expansive reading of Rule 16-504(h)(1)(C) would permit local administrative judges to invalidate statewide guarantees. That reading also clashes with basic precepts of statutory interpretation, and it ignores clear limitations on administrative judges’ authority under state law.

**A. The Court Reporter’s Understanding of Rule 16-504(h)(1) Would Permit Local Officials to Nullify Statewide Rules**

Rule 16-504(h)(1) expressly confers upon “any person” a “[r]ight” to obtain copies of audio recordings of circuit-court proceedings. The Court Reporter’s office claims that local administrative judges may eliminate this state-law entitlement within their jurisdictions by simply ordering—for any reason, or for no reason at all—that the guarantee no longer applies. The Court should



reject this brazen attempt to invalidate a binding legal requirement.

Rules adopted by the Court of Appeals must be given “a reasonable interpretation in tune with logic and common sense.” *Holmes v. State*, 350 Md. 412, 422 (1998) (citation omitted). As demonstrated above, the core purpose of Rule 16-504(h)(1) is to enable members of the public to obtain audio recordings of circuit-court proceedings. That same Rule cannot plausibly be interpreted, in self-nullifying fashion, to permit each administrative judge to eliminate the public’s right to audio recordings in the judge’s complete discretion. It is remarkable that Judge Pierson has claimed the authority to do so—and through an unpublished, one-sentence administrative order that contains no justification for terminating a legal entitlement long enjoyed by the public. *See Walker v. Haywood*, 65 Md. App. 1, 12 n.4 (Md. Ct. Special App. 1985) (observing that, when court-wide practices are established, “it would seem at least prudent to put them in writing and to publish them in a manner likely to bring them to the attention of those to be [a]ffected by them”).

The entire objective of the Maryland Rules is to establish uniform practices for *all* Maryland courts. *See* 7 Md. Law Encyclopedia, Courts § 31 (“The Maryland Rules are not mere guides to the practice of law, but precise rubrics established to promote the orderly and efficient administration of justice, and are to be read and followed.”). Allowing a local court—let alone a single

local judge—to override a requirement set forth in the statewide Rules would contravene that objective. *See, e.g., Owen v. Freeman*, 279 Md. 241, 248 (1977) (“[T]he courts in Baltimore City cannot ‘relinquish’ or ‘waive’ the mandate expressed in Maryland Rule 625a since it has long been recognized that the courts of this State cannot dispense with validly established rules.”); *Dove*, 415 Md. at 739 (“[C]ompliance with these rules is never discretionary, as the Maryland Rules of Procedure have the force of law” (citation omitted)).

Rule 16-504(h)(1)(C) contemplates that judges presiding over individual cases may, in the course of those assignments, order the withholding of audio recordings in specific proceedings. But it would be nonsensical to read that Rule as authorizing administrative judges to extinguish the public’s preexisting right to obtain audio recordings for *all* cases—past, present, and future.

### **B. The Court Reporter’s Reading of Rule 16-504(h)(1) Cannot Be Squared with Basic Principles of Statutory Interpretation**

Entirely apart from the illogicality of permitting a local administrative order to nullify a statewide rule, the Court Reporter’s reliance on Administrative Order 2019-02 flouts key tenets of statutory interpretation.

As noted above, authorized custodians of court recordings need not comply with Rule 16-504(h)(1)’s mandate when “ordered by the court” to refrain from furnishing those recordings to persons who request them. But the

surrounding provisions clarify that Rule 16-504(h)(1)(C)'s limited exception must refer to orders issued in specific cases, rather than administrative orders of general application. *See* Md. Rule 16-504(h)(1)(A) (indicating Rule 16-504(h)(1)'s focus on individualized “proceedings”); Md. Rule 16-504(h)(3)(G) (entitling “a party to *the proceeding* or the attorney for a party” to obtain audio recordings from matters closed to the public, “unless otherwise ordered by the court” in a specific proceeding (emphasis added)).

Indeed, the Rule's very next sentence begins with the phrase, “[u]nless otherwise ordered by the County Administrative Judge,” Md. Rule 16-504(h)(2), demonstrating that when the drafters of the Rule meant to refer to an administrative order (rather than a specific order in an individual case), they were careful to specify as much. *See also* Md. Rule 16-504(d) (“Unless otherwise *ordered by the court* with the *approval of the administrative judge . . .*” (emphases added)); Md. Rule 16-504(i)(2) (“Unless otherwise ordered by the County Administrative Judge . . .”). Several other Maryland Rules reflect this conscious drafting choice.<sup>6</sup>

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<sup>6</sup> *See also* Md. Rule 2-327(d)(4) (“The transfer shall be pursuant to an order entered by the circuit administrative judge having administrate authority . . .”); Md. Rule 2-504(a)(1) (“Unless otherwise ordered by the County Administrative Judge . . .”); Md. Rule 2-802(b)(1) (“The county administrative judge, by administrative order entered as part of the court's case management plan, may . . .”); Md. Rule 15-1103(b) (“The County Administrative Judge or that judge's designee shall enter an order . . .”); Md. Rule

And if any doubt remained about the meaning of “ordered by the court” as used in Rule 16-504(h), that subsection expressly distinguishes between “the Circuit Administrative Judge having supervisory authority over the court,” Md. Rule 16-504(h)(3)(C), and “the court” itself, Md. Rule 16-504(h)(3)(G).

“To prevent illogical or nonsensical interpretations of a rule,” courts must “analyze the rule in its entirety, rather than independently construing its sub-parts.” *Hariri v. Dahne*, 412 Md. 674, 684 (2010) (citation omitted). The text of Rule 16-504 makes clear that the phrase “ordered by the court” refers to an order issued in a specific case—not a generally applicable order issued by an administrative judge. The Court Reporter’s reading of that Rule would erase its deliberately crafted distinction between administrative judges and judges who preside over particular civil and criminal proceedings.

### **C. Judge Pierson Had No Authority to Issue Administrative Order 2019-02**

Moreover, Administrative Order 2019-02 cannot be the type of “order[]” contemplated by Rule 16-504(h)(1)(C), because Judge Pierson’s issuance of that

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16-201(d) (“Unless otherwise ordered for good cause by the County Administrative Judge . . . .”); Md. Rule 16-306(c)(1) (“The Circuit Administrative Judge for any other judicial circuit, by order, may . . . .”); Md. Rule 16-306.1(f)(1) (“By administrative order, the Administrative Judge of the Circuit Court for Baltimore City shall . . . .”); Md. Rule 16-403(a)(2) (“ . . . by order of . . . the County Administrative Judge, or the Circuit Administrative Judge for the judicial circuit”); Md. Rule 20-102(a)(2) (“[T]he County Administrative Judge of the circuit court . . . , by order, may direct that . . . .”).

order was ultra vires. Administrative judges have no authority to divest members of the public of a right explicitly guaranteed to them by state law.

Judge Pierson issued Administrative Order 2019-02 in his capacity as Administrative Judge for Baltimore City.<sup>7</sup> Yet administrative judges are not endowed with plenary authority over their respective courts. They may exercise only “the administrative powers conferred upon them” by law. Md. Rule 16-101(c). Elsewhere, the Maryland Rules authorize administrative judges to perform only those “administrative duties necessary to the effective administration of the internal management of the court and the prompt disposition of litigation in it.” Md. Rule 16-105(b)(12); *see also St. Joseph Med. Ctr. v. Turnbull*, 432 Md. 259, 276 (2013) (explaining that, under the Maryland Rules, administrative judges may only “make administrative decisions with regard to the ‘internal management’ of the circuit courts” (citation omitted)).

It is unsurprising that Judge Pierson failed to identify the source of his authority to issue Administrative Order 2019-02, because no such authority exists. That order plainly has nothing to do with the disposition of litigation in the Baltimore City Circuit Court. Nor does it concern matters “essentially

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<sup>7</sup> Judge Pierson serves as both the Circuit Administrative Judge for the Eighth Judicial Circuit and the County Administrative Judge for Baltimore City.

internal to the courts,” *Walker*, 65 Md. App. at 12 n.4 (citation omitted)<sup>8</sup>— administrative matters like procurement, information technology, human resources, security protocols, interpretation services, record retention, facilities maintenance, transcription methods, court calendars, assignment of judges, financial administration, and hours of operation.

Rather, Administrative Order 2019-02 reaches *externally* by altering the substantive rights of members of the public for reasons unrelated to their use of the court system. Because of that order, persons who did not participate in a case—and who may never set foot in a courtroom—are stripped of their state-law entitlement to obtain audio recordings of court proceedings. Judge Pierson therefore “exceeded the scope of his authority” as an administrative judge in issuing an order unrelated to the internal management of the Baltimore City Circuit Court. *Turnbull*, 432 Md. at 269. Accordingly, Administrative Order 2019-02 is not a type of “order[]” that could excuse Ms. Trikeriotis from complying with her duty under Rule 16-504(h)(1).

#### **D. Administrative Order 2019-02 Does Not Apply to Petitioner’s Request, in Any Event**

Finally, even if an administrative order could trigger the “as ordered by

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<sup>8</sup> Because Administrative Order 2019-02 “ha[s] a broader reach,” it also functions as a local rule—one not falling within the five permissible categories of local rules specified in Maryland Rule 1-102. *See Walker*, 65 Md. App. at 12 n.4.

the court” exception, the existence of Administrative Order 2019-02 still would not justify the Court Reporter’s denial of Petitioner’s request. That order was signed on April 24—a full week after Petitioner submitted her request, and more than two days after the Court Reporter’s office confirmed that the recording would be made available to her. *See* Barron Aff. ¶¶ 3, 6. Nothing in Administrative Order 2019-02’s brief text suggests that it can overcome the “long-standing presumption against [the] retroactivity” of new enactments. *State Ethics Comm’n v. Evans*, 382 Md. 370, 383 (2004). That is especially true given that the order “adversely affects substantive rights, rather than only altering procedural machinery.” *John Deere Constr. & Forestry Co. v. Reliable Tractor, Inc.*, 406 Md. 139, 146-47 (2008) (citation omitted). The Court Reporter thus cannot rely on the order to deny Petitioner’s request for an audio recording under Rule 16-504(h)(1).

### **III. Petitioner Is Entitled to Declaratory Relief**

In addition to mandamus relief, Petitioner is entitled to a declaratory judgment precluding Ms. Trikeriotis and Judge Pierson from relying on Administrative Order 2019-02 as a basis for refusing to comply with Rule

16-504(h)(1).<sup>9</sup> Maryland’s Declaratory Judgment Act is “remedial” and must “be liberally construed and administered.” Md. Cts. & Jud. Pro. § 3-402; *see also Sprenger v. Pub. Serv. Comm’n of Md.*, 400 Md. 1, 23 (2007) (recognizing “the strong legislative policy favoring the liberal use and interpretation of the Declaratory Judgment[] Act” (citation omitted)). The Court of Appeals has “admonished trial courts to grant declaratory judgment when it has been petitioned for and the circumstances of the controversy warrant it.” *Sprenger*, 400 Md. at 20.

Declaratory relief is warranted here because (1) “[a]n actual controversy exists” in this case; (2) “[a]ntagonistic claims are present,” ones that have already resulted in litigation; (3) Petitioner “asserts a legal . . . right” that is “challenged or denied by [the Court Reporter’s office],” which also has a “concrete interest” in the present dispute’s resolution; and (4) a declaratory judgment would “terminate the uncertainty or controversy giving rise to the proceeding.” Md. Cts. & Jud. Pro. § 3-409(a). Further, no statute prescribes a “special form of remedy” when court officials fail to comply with Rule 16-504(h)(1). Md. Cts. & Jud. Pro. § 3-409(b).

For these reasons, and because the Court Reporter’s office has unlawfully

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<sup>9</sup> Under Maryland law, “[a] party may obtain a declaratory judgment or decree notwithstanding a concurrent common-law, equitable, or extraordinary legal remedy.” Md. Cts. & Jud. Pro. § 3-409(c).



invoked Administrative Order 2019-02 as a justification for restricting public access to copies of court recordings, Petitioner is entitled to a declaratory judgment clarifying that Rule 16-504(h)(1)(C)'s "as ordered by the court" exception cannot be triggered by the issuance of a local administrative order.

#### **IV. In the Alternative, Injunctive Relief Is Warranted**

Finally, in the event that this Court declines to issue a writ of mandamus, it should issue an injunction directing Ms. Trikeriotis to provide Petitioner a copy of her requested audio recording under Rule 16-504(h)(1). Injunctive relief is warranted because Petitioner will suffer substantial and irreparable injury unless Ms. Trikeriotis is ordered to provide Petitioner with her requested audio recording. Such an injury is suffered "whenever monetary damages are difficult to ascertain or are otherwise inadequate." *El Bey v. Moorish Science Temple of America, Inc.*, 362 Md. 339, 355 (2001) (citation omitted). That requirement is satisfied here due to Petitioner's intended use of her requested audio recording. *See Barron Aff.* ¶¶ 20-21.

#### **CONCLUSION**

For the foregoing reasons, this Court should grant Petitioner's Motion for Summary Judgment and order Ms. Trikeriotis to provide Petitioner with her requested audio recording.

June 21, 2019

Respectfully submitted,

/s/ Daniel B. Rice

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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing paper will be hand-delivered to each party on June 21, 2019, or, if that method proves impractical, mailed via first-class mail.

/s/ Daniel B. Rice

DANIEL B. RICE