

WHO ARE WE?

An organization of 90 engineering and professional service firms in the State of Maryland

WHO DO WE REPRESENT?

Over 7,000 employees including:

Engineers	Scientists
Architects	Technical Specialists
Land Surveyors	Planners

CONTACT INFORMATION

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CERTIFICATE OF MERIT – PROTECTIVE ORDER

WHAT IS THE ISSUE?

When a claim for damages is filed involving a professional architect, engineer or surveyor, the claimant must obtain a "Certificate of Merit," prepared by a "qualified expert" (engineer) who can certify that the professional contributed to the claimant's loss or injury by failing to meet the legal requirement for an "applicable standard of professional care."

To obtain a certificate, the claimant is entitled to access documentary evidence provided by the professional that would be otherwise discoverable, if the documentary evidence meets the legal requirement "reasonably necessary in order to obtain a certificate of a qualified expert." When the claimant cannot obtain a certificate, the claim is dismissed.

WHY ARE THESE CHANGES IMPORTANT?

While the evidence to be obtained via discovery is to be examined by an expert [engineer], the decision about what information to request will often be made by the claimant's attorney, possibly before the expert has been assigned. The claimant's attorney will often request information that exceeds the legal requirement "reasonably necessary to obtain a certificate of merit from the qualified expert."

In some situations, an engineering firm with minimal or no connection to the injury or loss may be overwhelmed by costly and burdensome demands for unwarranted documentation that must be reviewed by an attorney, copied and compiled for submission to the claimant's attorney within 30 days.

Legislative Action Required

Amend Section 3-2C-02 (b) (2) of the Annotated Code of MD to:

1. Allow a defendant to petition the court to limit the documentary evidence required to be disclosed for a "Certificate of Merit." The justification for limiting the disclosure of documentation would be protecting the defendant from annoyance, embarrassment, oppression, or undue burden or expense.
2. Require the court to review the request and, upon a finding of good cause, grant a protective order specifying the documentary evidence that the defendant must provide to the claimant.
3. The action to date - sponsors Sen. Robert Cassilly, D-34 and Del. Susan McComas D-34 have sponsored pre-filled bills for hearings in the 2020 General Assembly Session.