

## 2019 UPDATES

*Attorney Grievance Commission of Maryland v. Melinda Maldonado*, Misc. Docket AG No. 11, September Term, 2017. Opinion by Getty, J. Decided: March 6, 2019.

**Quick glance:** Out-of-state attorney was found to have violated, *inter alia*, Rule 5.5 (engaging in the unauthorized practice of law) by filing “pro se” pleadings on her client’s behalf without a Maryland license and without a *pro hac vice* admission. Court was careful to distinguish the attorney’s behavior in this case from “ghostwriting,” which is permitted by Rule 1.2.

**Details:** The Court of Appeals disbarred an attorney for violating Rules 1.1 (Competence); 4.1 (Truthfulness in Statements to Others); 5.5 (Unauthorized Practice of Law; Multijurisdictional Practice of Law); 8.1 (Bar Admission and Disciplinary Matters); and 8.4(a), (c), and (d) (Misconduct) of the Maryland Attorneys’ Rules of Professional Conduct.

With respect to Rule 5.5, the Court found that the attorney engaged in the unauthorized practice of law in Maryland when she drafted and filed numerous pleadings without a Maryland license and without a *pro hac vice* sponsor. *Maldonado* at pp.23-26. Contrary to the attorney’s assertions, the fact that she signed these pleadings on her client’s behalf as “pro se” did not absolve her from the unauthorized practice of law. *Id.* at 25. The attorney’s client was never proceeding pro se, but instead the attorney was using that description to hide the fact that she was practicing law in Maryland without a license. *Id.*

In a footnote, the Court was careful to distinguish the attorney’s behavior in this case from ghostwriting, which is permissible under Rule 1.2. *Id.* at p. 25 n.4. The Court noted that Rule 1.2, or any argument of ghostwriting, is inapplicable because: 1) she was practicing law without a license or *pro hac vice* admission; and 2) there was no limited scope retainer agreement as required by Rule 1.2. *Id.*

The Court noted that it has not yet been presented with an attorney discipline case specific to ghostwriting. *Id.* It seems, however, that the Court is somewhat uncomfortable with the idea of ghostwriting. It cites a Maryland bankruptcy case for a description of ghostwriting (which is arguably negative.) *Id.* In addition, it is well-established that ghostwriting is prohibited by the local rules of the United States District Court for the District of Maryland. *United States District Court for the District of Maryland, Local Rule 102(1)(a)(ii)*. Despite this, the Court acknowledges that “Rule 1.2 was amended to permit Maryland attorneys to agree to limit the scope of the representation to clearly defined specific tasks or objectives, such as the drafting of documents.” *Maldonado* at p. 25, n.4.