



2016

# Recent Development: Scarfield v. Muntjan: A Jury Demand in an Amended Complaint, Which is Dismissed for Failure to State a Claim, Does Not Revive a Previously Waived Jury Demand for Counts in the Original Complaint

Thomas Andrew Barnes  
thomas.barnes2@ubalt.edu

Follow this and additional works at: <http://scholarworks.law.ubalt.edu/lf>

 Part of the [Civil Procedure Commons](#), and the [State and Local Government Law Commons](#)

## Recommended Citation

Barnes, Thomas Andrew (2016) "Recent Development: Scarfield v. Muntjan: A Jury Demand in an Amended Complaint, Which is Dismissed for Failure to State a Claim, Does Not Revive a Previously Waived Jury Demand for Counts in the Original Complaint," *University of Baltimore Law Forum*: Vol. 46 : No. 2 , Article 8.  
Available at: <http://scholarworks.law.ubalt.edu/lf/vol46/iss2/8>

This Article is brought to you for free and open access by ScholarWorks@University of Baltimore School of Law. It has been accepted for inclusion in University of Baltimore Law Forum by an authorized editor of ScholarWorks@University of Baltimore School of Law. For more information, please contact [snolan@ubalt.edu](mailto:snolan@ubalt.edu).

## **RECENT DEVELOPMENT**

---

### ***SCARFIELD V. MUNTJAN: A JURY DEMAND IN AN AMENDED COMPLAINT, WHICH IS DISMISSED FOR FAILURE TO STATE A CLAIM, DOES NOT REVIVE A PREVIOUSLY WAIVED JURY DEMAND FOR COUNTS IN THE ORIGINAL COMPLAINT.***

**By: Thomas Andrew Barnes**

The Court of Appeals of Maryland held that, while a waived jury trial may be revived by an amended complaint in which new and substantive issues are raised, the dismissal of a new count raised in an amended complaint will not revive the originally waived demand for jury trial. *Scarfield v. Muntjan*, 444 Md. 264, 266, 276-77, 119 A.3d 745, 746, 752 (2015).

The instant case arises from a dispute between a tenant, Peter Muntjan (“Muntjan”), and his landlord, Frank Scarfield (“Scarfield”). In 2007, Scarfield filed a complaint against Muntjan alleging he held over on his lease. The District Court of Maryland, sitting in Baltimore County, ordered a Writ of Possession to be issued and executed by the county sheriff. Muntjan was evicted on December 19, 2007.

Muntjan filed a pro se complaint in the Circuit Court for Baltimore City three years later. He alleged one count of trover and conversion (“Count I”) and one count of invasion of privacy (“Count II”) in relation to the 2007 ejection and repossession. Scarfield filed a motion to dismiss Count II, which the circuit court granted in September 2011, on the basis that the statute of limitations lapsed. Scarfield filed his answer to Count I in October, without a jury demand. Muntjan failed to file a jury demand within 15 days of Scarfield’s answer. Then, in April 2012, Muntjan filed an amended complaint which reasserted Counts I and II, added a third for abuse of process (“Count III”), and demanded a jury trial.

Scarfield replied to Muntjan's amended complaint and jury demand by filing a motion to strike. His motion was denied, but the circuit court did not make a ruling on the jury demand. Scarfield later filed a motion to dismiss Counts II and III for failure to state a claim, and renewed his motion to strike the jury demand. He asserted that the jury demand was ineffective because it was not filed within 15 days of service of the last pleading, pursuant to Md. Rule 2-325(b). Additionally, Scarfield argued that an amended complaint is not a pleading as defined in Maryland Rule 1-202 (defining a pleading as a complaint, a counterclaim, a cross-claim, a third-party complaint, or as an answer to any of the aforementioned documents).

The circuit court ruled that an amended complaint is a pleading under Maryland Rule 1-202, but reasoned that permitting a plaintiff to demand a jury trial at any time would defeat the “orderly process” established in Maryland Rule 2-325(a) and (b). However, the court recognized one possible exception

– a jury demand would be entertained if an amended complaint added a new claim which did not prejudice the opposing party. The court concluded that Count III was too closely related to Count I, and held that Muntjan could not revive the jury demand because the amended complaint did not raise a new claim. Muntjan appealed to the Court of Special Appeals of Maryland.

The intermediate appellate court made two relevant rulings. First, the court determined that the circuit court correctly dismissed Count III, finding that an abuse of process claim based on the initial eviction does not actually state a cause of action for abuse of process. Second, the circuit court erred in denying the jury demand because the amended complaint in this case *did* raise a new issue. “Muntjan’s claim for [a]buse of [p]rocess was based on a separate set of facts involving appellees’ purpose in initiating the eviction,” entitling Muntjan to a remand for jury trial. Scarfield appealed to the Court of Appeals of Maryland, which granted certiorari.

Maryland’s highest court examined the intermediate appellate court’s decision *de novo* because the questions presented were a matter of law. *Scarfield*, 444 Md. at 270, 119 A.3d at 748. The Court of Appeals of Maryland established the foundation of its discussion by stating that the Maryland Rules must be construed to be simple and fair, promoting the efficient and ordered administration of justice. *Id.* at 270-71, 119 A.3d at 748-49 (citing Md. Rule 1-201(a)). Maryland Rule 2-325 provides that a party waives its right to jury trial when it fails to file a demand within 15 days after service of the last pleading. *Id.* at 271-72, 119 A.3d 749 (citing Md. Rule 2-325).

Muntjan failed to file a demand for jury trial within 15 days of service of the last pleading after the original complaint. *Scarfield*, 444 Md. at 272, 119 A.3d at 749. However, he included a jury demand to accompany Count III in an amended complaint. *Id.* The high circuit court dismissed Count III for failure to state a claim which the Court of Special Appeals of Maryland affirmed. *Id.* at 273, 199 A.3d at 750. This resulted in a demand for jury trial attached to an amended complaint that did not add new counts. *Id.*

The court of appeals rejected Scarfield’s argument that an amended complaint is not a pleading within Rule 1-202. *Scarfield*, 444 Md. at 272, 119 A.3d at 750. The court found the circuit court’s reasoning persuasive, that “an amended complaint is a pleading in the sense that it [is] an amendment of a pleading.” *Id.* at 273, 119 A.3d at 750. However, the court accepted Scarfield’s argument that Count III was not a “triable right by jury” because it was dismissed for failure to state a claim. *Id.*

Neither the Maryland rules nor case law define a “triable of right by a jury.” *Scarfield*, 444 Md. at 274, 119 A.3d at 751. Triable of right by a jury traditionally “refers to whether an action was triable by a jury at common law.” *Id.* (citing *Luppino v. Gray*, 336 Md. 194, 201, 647 A.2d 429, 432 (1994)). The *Maryland Rules Commentary* is in agreement such that “a demand filed with an amended complaint whose only new count is equitable in nature will not be granted.” *Id.* The court acknowledges examples where prior courts found the determinative factor to be “whether the new count was only duplicative of previous counts.” *Id.* at 275, 119 A.3d at 751. Here, Count III

failed to state a claim and as a result did not present a claim “triable of right by a jury.” *Id.* at 276, 119 A.3d at 752.

In further support, the court emphasized that Rule 2-325's causal efficacy would be rendered meaningless if parties were able to revive waived jury demands simply by demanding a jury trial in any amended complaint. *Scarfield*, 444 Md. at 276-77, 119 A.3d at 752. The judgment of the court of special appeals was reversed and remanded. *Id.* at 277, 119 A.3d at 752.

In *Scarfield*, the Court of Appeals of Maryland held that a waived jury demand cannot be revived by an amended complaint if the new counts are dismissed for failure to state a claim. The intent of the Maryland Rules is to provide a legal structure that is as simple, fair, and swift as possible, while costing no more than necessary. These rules are kept efficient by reversing the intermediate court's judgment. No longer can erroneous or fruitless amended complaints be filed in order to revive a waived jury trial – even if such amended complaints are filed in good faith. However, this decision now incentivizes attorneys to demand jury trials with their original complaints, knowing that they cannot so easily be revived later. What might have been a one-day bench trial may now take two or three, given even a short voir dire can take an entire morning. Though it would not necessarily approach the threshold of a 6th Amendment violation, even by adding only one day to every trial, the notion of a “speedy trial” will become much less so. This judgment may also impose a greater financial burden on the state. While the salary of the judges, clerks, and administrative assistants are fixed, there will be a greater demand for jurors, who are paid hourly and provided a daily lunch stipend. Lastly, even if attorneys practicing in Maryland do not demand a greater number of jury trials, this introduces a free rider problem. There will always be the small group of outliers who know that, so long as the majority of their peers follow economically efficient and socially ethical behavior, their own contrary behavior will go unnoticed.