

cannot be filed with the common counts under the Practice Act of Baltimore City. *Murray v. Revel*, Daily Record, January 10, 1899.

(5) *Declaration*. A declaration filed under Act 1886, ch. 184, made before a Justice of Peace in another state and not having attached to it a certificate of the Judge of the Court according to the Act of Congress is defective and a judgment of non pros. will be allowed on motion. *Downs v. Appold*, Daily Record, October 19, 1892.

(6) The declaration and affidavit must agree, otherwise a motion to strike out the judgment will prevail. *Griffith v. Graham*, Daily Record, July 15, 1891.

Upon demand for Bill of Particulars, defendant entitled to have order extending time to plead.

Newbold v. Greene, 122 Md. 649. (See Act 1914, ch. 378.)

Pleas were withdrawn and new pleas substituted by permission of Court, to which plaintiff filed replication and proceeded to trial. *Held*, that the replication and the proceeding with the trial amounted to a waiver by the plaintiff of the right to raise on appeal the question of the correctness of the ruling. The proper course would have been for the plaintiff to decline to file the replication, and to suffer judgment by default, from which judgment an appeal can be taken.

Shoop v. F. & D. Co., 124 Md. 130.

1864, ch. 6, sec. 8. 1886, ch. 184, sec. 171. P. L. L. (1888), Art. 4, sec. 168.

313. The plaintiff shall not be entitled to judgment under the preceding section, unless at the time of bringing his action he shall file with his declaration an affidavit or affirmation, if the affiant is conscientiously scrupulous as to taking an oath, stating the true amount the defendant is indebted to him, over and above all discounts, and shall also file the bond, bill of exchange, promissory note or other writing or account by which the defendant is so indebted; or if the action be founded upon a verbal or implied contract, shall file a statement of the particulars of the defendant's indebtedness thereunder. If there are two or more plaintiffs, the said affidavit or affirmation, may be made by any one of them, or if all the plaintiffs be absent from the State at the time of the bringing of said suit, or if the plaintiff be a corporation, the said affidavit or affirmation may be made by an agent of plaintiff or plaintiffs, or any of them, who will make further oath or affirmation that he has personal knowledge of the matters therein stated; and the said affirmation or affidavit may be made before any of the persons who may take an affidavit or affirmation to authorize the issuing of a foreign attachment, and may be certified in the same manner.

Mailhouse v. Inloes, 18 Md. 332. *Griffin v. Leslie*, 20 Md. 15. *Smithson v. The United States Telegraph Co.*, 29 Md. 165. *Jones v. Freeman*, 29 Md. 276. *Greff v. Fickey*, 30 Md. 79. *State v. Steibel*, 31 Md. 37. *Knickerbocker Life Ins. Co. of New York v. Hoeske*, 32 Md. 318. *McAllister v. Eichengreen*, 34 Md. 56. *Norris v. Wrenschall*, 34 Md. 499. *Canton Nat. Bldg. Ass'n v. Weber*, 34 Md. 671. *Jones v. Barnett*, 35 Md. 260. *Ingalls v. Crouch*, 35 Md. 296. *Keene v. Whittington & Co.*, 40 Md. 497. *Loney v. Bailey*, 43 Md. 10. *McSherry v. Brooks*, 46 Md. 122. *Mayor v. Ideson*, 47 Md. 542. *De Atley v. Senior*, 55 Md. 479. *Parkhurt v. Citizens Nat. Bank*, 61 Md. 254. *The Orient Mutual Insurance Co. v. Andrews*, 66 Md. 371. *Thorne v. Fox*, 67 Md. 67. *Thillman v. Shadrick*, 69 Md. 528. *Gemmil v. Davis*, 71 Md. 458. *Balto. Pub. Co. v. Hooper*, 76 Md. 165. *Laubheimer v. Nail*, 88 Md. 174. *Singer v. Fidelity & Deposit Co.*, 96 Md. 224. *Smith v. Hallwood Cash Reg. Co.*, 97 Md. 354. *Nicholson v. Snyder*, 97 Md. 419. *Deved v. Carrington*, 98 Md. 378. *Abbott v. Bowers*, 98 Md. 525. *Colbourn v. Boulton*, 100 Md. 357.

In connection with the provisions of section 313, *see further*, *Wilson v. Wilson*, 8 Gill, 192. *Cumberland Coal & Iron Co. v. Hoffman Steam Coal Co.*, 22 Md. 499. *Warwick v. Chase*, 23 Md. 154. *Evesson v. Selby*, 32 Md. 345. *The Universal Life Ins. Co. v. Bachus*, 51 Md. 31. *Horner v. Plumley*, 97 Md. 271. *Dipscomb v. Zink*, 151 Md. 431. *Fick v. Towers*, 152 Md. 336.