

The Circuit Court for Howard County  
Fifth Judicial Circuit  
Family Law Differentiated Case  
Management Plan

Approved by the Court of Appeals of Maryland  
January 29, 2007

Revisions Effective \_\_\_\_\_

The Honorable Diane O. Leasure  
Administrative Judge  
The Circuit Court for Howard County  
8360 Court Avenue  
Ellicott City, MD 21043

# The Circuit Court for Howard County Family Law Differentiated Case Management Plan

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The purpose of a Differentiated Case Management Plan is to provide effective case management, in compliance with Md. Rule 16-202, which should include a predictable course of action for all family law cases and the timely resolution of cases. In an effort to comply with case time standards, most family law cases should close within twelve months of filing and the remainder should close within eighteen months of filing. As part of that plan, family law cases will now follow a specific course of action.

These policies and procedures apply to the following types of cases:

- Absolute and limited divorce
- Adoption
- Alimony
- Annulment
- Child support\*
- Contempt of an order for alimony, child support, custody, visitation and use and possession of a family home
- Custody/Visitation
- Post judgment modification of alimony, child support, custody, visitation and use and possession of a family home
- Use and possession of a family home

Guardianship cases require a specially designated case management plan. Therefore, all guardianship cases will proceed in accordance with the attached guardianship addendum to this plan.

*\*Support matters initiated or defended by the Howard County Department of Social Services will follow a slightly different procedure. See page 4.*

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Requirements for guardianship of minor

FAMILY SERVICES PERSONNEL

|                                                   |                |
|---------------------------------------------------|----------------|
| ADR Coordinator.....                              | (410) 313-3053 |
| Jennifer Bowman                                   |                |
| Fax.....                                          | (410) 313-2413 |
| Court Social Worker.....                          | (410) 313-5959 |
| Patricia Bright                                   |                |
| Fax.....                                          | (410) 313-3434 |
| Court Reporter Inquiry                            |                |
| Leslie Cale.....                                  | (410) 313-2148 |
| Family Law Coordinator.....                       | (410) 313-2225 |
| Lisa Mohink                                       |                |
| Family Law Assistant.....                         | (410) 313-2403 |
| Hella Stevenson                                   |                |
| Fax.....                                          | (410) 313-2413 |
| Supervised Visitation Manager.....                | (410) 313-2225 |
| Juvenile Courtroom Specialist.....                | (410) 313-2225 |
| Judge Louis Becker.....                           | (410) 313-2083 |
| Judge Richard Bernhardt.....                      | (410) 313-2145 |
| Judge Lenore Gelfman.....                         | (410) 313-2143 |
| Judge Diane Leasure.....                          | (410) 313-2066 |
| Judge Timothy McCrone.....                        | (410) 313-2149 |
| Master Mary Kramer and Master William Tucker..... | (410) 313-4857 |
| Judicial Fax.....                                 | (410) 313-3192 |
| Master Elaine Patrick.....                        | (410) 313-2638 |
| Fax.....                                          | (410) 313-3434 |

## **DOMESTIC RELATIONS CASE MANAGEMENT:**

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### **CASE REVIEW**

Cases are reviewed immediately after an answer is filed. Most contested domestic relation cases are set for a scheduling conference. The conference will be scheduled 30-45 days from the date an answer is filed. Scheduling conferences are not set when an unrepresented party lives out of state and/or a support or contempt matter is the only issue; these cases will be set directly for a hearing.

Uncontested cases are either set before a master examiner (divorce) or set directly for a hearing before a master (any other family law matter listed above). Upon service notification or answer, contempt cases will be set directly for a hearing or a scheduling conference (Md. Rule 16-206 and 9-207 (d)).

*Support matters initiated or defended by the Department of Social Services will be set for a hearing upon written request. This includes paternity, establishment and contempt. These matters will not be set for a scheduling or settlement conference or for facilitation. The Master is, however, amenable to both conference calls and chambers conferences when appropriate. Postponement procedure is the same as that applicable to all other domestic relations cases.*

### **SCHEDULING CONFERENCE**

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#### **ORDER AND PROCEDURE**

The conferences will take place on Fridays in the court house before the family law coordinator. At the scheduling conference (Md. Rule 2-504.1), a scheduling order will be generated which may include:

1. Referrals to service providers (mediation, parenting classes, property ADR, etc.) ( Rules 9-204, 9-205, 17-103).
2. Appointment of children's attorneys (if both parties consent).
3. Custody evaluation (if case appropriate and both parties consent) and the criteria for custody evaluations is satisfied.
4. Master's Hearing date (if appropriate 50-60 days from conference). Said hearing will be limited to 3 hours unless there is prior written permission from the administrative judge to extend.
5. Discovery deadlines (80-90 days from conference)<sup>1</sup>.

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<sup>1</sup> Dates may be extended depending on the complexity of the case, however the settlement conference should not exceed 200 days from the scheduling conference.

6. Settlement conference date before retired Judges (100-115 days from conference). Modifications are not set for a settlement conference, unless specifically requested.

Merits hearings will not be scheduled at the scheduling conference. This will ensure that only cases ready for trial will be scheduled, allowing cases to proceed on the original scheduled date.

All counsel and parties must be present at the scheduling conference, unless:

1. The party lives out of state, but is represented by counsel and is available by telephone.
2. Counsel notified the court and opposing counsel that party cannot appear and if opposing counsel agrees, the conference will go forward. If counsel wants the opportunity to facilitate, the conference will be re-set.
3. Counsel must attend scheduling conferences in person. Conferences will not be conducted by telephone absent extreme hardship for counsel to attend.

### ***SCHEDULING CONFERENCE***

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#### ***CASE COMPLEXITY***

In addition to a scheduling order, determination of the complexity of the case (which determines deadlines) will be made at the scheduling conference. Criteria for complexity must be satisfied prior to extensions of deadlines.

Counsel will not determine what referrals and/or hearings are scheduled. All cases will follow a general course of action, with the ability to extend deadlines if case complexity requires such. All cases with *pendente lite* issues will be set for a Master's Hearing. Additionally, custody issues will not be bifurcated, unless specifically ordered by a Judge. Furthermore, all hearing dates will be scheduled at the conference regardless of whether grounds (at the time of the conference) are ripe for an absolute divorce. It will be the responsibility of counsel or the parties to ensure proper pleadings are subsequently filed.

### ***SETTLEMENT CONFERENCES***

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Settlement conferences will take place before either a retired Judge. All discovery, as specifically ordered, shall be completed prior to the conference. Parties and/or counsel should be fully prepared to settle the case at this time. There is no cost for the conference and it will take place in the courthouse. The conference will not be on the record. However, if the case settles, an agreement can be placed on the record at that time and/or divorce testimony may be taken. If

the case does not settle at the settlement conference, parties will be instructed to go to the case management office to get a merits trial date (60 days or less from the settlement conference, *not to exceed case time standards*).

### ***SETTLEMENT OF THE CASE***

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If a case settles prior to any scheduled event, counsel should notify appropriate chambers of settlement. If a consent is received and case requires no hearing, the case will be removed from the docket. If an uncontested hearing is needed, testimony may be taken on the day of the scheduled contested hearing. As stated above, the court will require a fully executed consent order prior to removal from the docket; or in the alternative parties may appear and place the agreement on the record.

See the DCM addendum regarding settlement procedure in Limited Divorce cases.

### ***CHAMBERS CONFERENCES***

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There are certain situations in which a case needs court intervention. In appropriate circumstances the Masters are willing to handle issues in a informal manner. Counsel should contact the Master's office directly or the family law coordinator to determine if a chambers conference is necessary.

### ***CONFERENCE CALLS***

The Masters are amenable to conference calls with attorneys to clear up minor issues immediately before and after *pendente lite* or modification hearings. This can be a cost-effective and rapid way to resolve minor problems.

### ***CHAMBERS CONFERENCES***

The Masters are amenable to chambers conferences prior to a hearing to assist the parties in settlement negotiation or narrowing of issues, upon request. If the case is hopelessly contested, a chambers conference may only serve to waste time that could be spent on testimony and argument on the record. Be judicious in your requests.

### ***STATUS CONFERENCES***

In some circumstances the court may request a status conference. The purpose is usually to meet with both sides in an effort to get the case on track if it is not proceeding as desired. These are usually brief and procedural, and are always non-evidentiary.

***Except for the above circumstances, an appropriate MOTION must be filed for any request for relief. Litigants and/or Counsel should NOT send letters to chambers regarding existing or closed cases.***

### ***EXCEPTIONS PROCEDURE***

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In accordance with Md. Rule 9-208 (f), a party may file exceptions to a Master's recommendations within ten days after the recommendations are placed on the record or served. A transcript request must be filed with the exceptions, or a certification that no transcript is necessary to rule on the exceptions. If a transcript is not requested and paid for, the court may dismiss the exceptions without a hearing. The Court Reporter will give a price estimate within two days of the exceptions filing and payment must be made within ten days or exceptions will be deemed to not be timely filed. The transcript should be completed within 30 days of payment, therefore in time for any scheduled hearing. In an effort to expedite the process, Counsel may call the Court Reporter directly for a price estimate. Counsel may request a partial transcript.

The court may decide exceptions without a hearing unless a hearing is requested upon filing exceptions or by an opposing party within ten days after service of the exceptions. If a hearing is needed, calendar management will set the matter within 60 days of filing. The exceptions hearing date will not postpone any other scheduled event in the case and all requirements in the scheduling order will remain in effect.

If Counsel needs to listen to a tape, they may contact the court reporter office directly.

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### ***STRIKING OF ATTORNEY'S APPEARANCE***

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Pursuant to Md. Rule 2-132, unless a client has another attorney of record, attorneys must file a motion to withdraw their appearance. The Rule also states in part that "the court may deny the motion if withdrawal of the appearance would cause undue delay, prejudice, or injustice." Therefore, if there is any matter scheduled in the case within 30 days of a motion to withdraw, extenuating circumstances may have to exist in order for the court to grant the motion. Extenuating circumstances may include safety concerns or issues of perjury. Nonpayment of legal fees will not constitute extenuating circumstances.

## EMERGENCY PROCEDURE

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The Masters review all requests for emergency hearings with the exception of domestic violence *ex parte* relief. For emergency hearings, there must be service on the other side. Also, there must be an emergent situation (one that cannot safely wait for a regular hearing). Please title your request "Request" not "Motion." For *ex parte* relief, there must be a certification that the other party or attorney was notified in advance that the request for *ex parte* relief would be made. See Md. Rule 1-351.

### Procedure

1. Requirements
  - a. There must be a Complaint or Petition that has been filed *and served* on the other party.
  - b. There must be a pleading requesting the *ex parte* or emergency relief.
  - c. The pleading should be accompanied by an affidavit or documentation of the alleged emergency.
  - d. There must be a certification of notice to the opposing party/counsel as required by Maryland Rule 1-351.
  - e. The pleading should be accompanied by a proposed Order.
2. Procedure
  - a. Emergency/*ex parte* motion is filed with the Clerk of the court.
  - b. Clerk's Office brings Motion and file to Masters' office.
  - c. Either of the Masters will review the Motion and supporting documentation, and make a determination whether the matter qualifies for treatment as an emergency.
3. Possible outcomes
  - a. The Master may recommend that the Court grant immediate relief on the *Ex Parte* request, and that an immediate hearing follow to permit both parties to be heard on the issue.
  - b. The Master may recommend that the matter be set in for an expedited Master's hearing on the emergency issues.
  - c. The Master may recommend that the emergency or *ex parte* relief be denied.
4. What constitutes an emergency?
  - a. Any risk of substantial, irrevocable harm that will likely occur unless the matter is considered immediately.
  - b. Any imminent threat to the health, welfare, and safety of a party or a party's child.
  - c. Imminent removal of a child from the state without advance notice to other parent.
  - d. Generally, the following are NOT considered emergencies: non-payment of support or other financial obligations, school transfers, visitation disputes. These matters can be addressed in traditional hearings.

## ***ALTERNATIVE DISPUTE RESOLUTION***

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### ***MEDIATION AND PARENTING CLASSES***

Mediation and parenting classes are mandatory in contested custody and visitation cases, unless there have been allegations of domestic violence. In such cases, only parenting classes will be ordered. Parties will be ordered to attend two, two hour mediation sessions with a court - approved and qualified mediator. Counsel does not have to attend custody/visitation mediation.

Property mediation may also be ordered at the time of the scheduling conference. Parties must agree to participate in this type of mediation. Counsel does not have to attend mediation, although the mediator may request that they do so. Parties will be ordered to attend two, two hour sessions with a court approved and qualified mediator.

Parties will be ordered to contact the mediator directly to schedule mediation. The mediation sessions should be completed within sixty days, unless as ordered, case complexity requires additional time. Failure to attend mediation may result in case delay and/or sanctions.

The parenting seminars are conducted by the National Family Resiliency Center (NFRC). The seminars are a tool designed to assist parents raising children living separate and apart. Parties may contact NFRC at (410) 740-9553 to register and attend the seminars. The seminars should be taken prior to mediation and also must be completed within sixty days.

Parties who live outside of Maryland may be required to attend a similar parenting class in a more convenient location.

The fee for custody and property mediation is \$200.00 per hour. The parenting seminar fee is \$100.00 per person. The Court has a fee waiver program for income eligible persons.

### ***FACILITATION PROGRAM***

The court operates a volunteer based facilitator program in an effort to assist parties to settle their case . There are two distinct ways in which a case may participate in this program. First, a facilitator will be available at the time of scheduling conferences. Parties must agree to facilitate and Counsel does not have to be present for facilitation. If however, counsel elects to stay and an agreement is reached, the court will make every effort to have that agreement placed on the record that day.

Facilitation may also be ordered in a case. If facilitation is ordered, parties cannot elect not to participate and if represented, counsel is expected to be present. As stated above, if an agreement is reached, the court will make every effort to have that agreement placed on

the record.

Facilitation, unless otherwise agreed to, will take place in the Court House. There is no cost for this program.

If you would like to volunteer as a facilitator are in accordance with Maryland Rule 17 - 105, Howard County facilitators must:

1. Complete a facilitator training or have at least five years experience in the active practice of law.
2. Have specialized experience in dealing with the issues in dispute.
3. Complete a facilitator application.

Therefore, only family law facilitations without financial issues will be assigned to a facilitator whose profession is other than that of an attorney.

Court facilitators are volunteer positions, however, attorneys may include this time towards annual pro bono hours. Additionally, facilitators who volunteer on Fridays and who are also court approved mediators will receive the unopposed court ordered meditations for that day. If you are interested in participating in this program or observing a facilitation before volunteering your time, please contact Jennifer Bowman (410) 313-3053 or Hella Stevenson (410) 313-2403. Thank you very much for considering this project.

## ***CUSTODY EVALUATIONS***

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### *Requests for Custody Evaluations*

Counsel can either file a motion for a custody evaluation or make verbal request at the scheduling conference. If both parties consent to the evaluation and the criteria for an evaluation is satisfied<sup>2</sup>, an order will be generated after the conference. Where parties have the financial ability to pay for a private evaluation, they may be required to do so. In most instances, the parties may need to choose between a custody evaluation and appointment an attorney for the minor children to avoid duplication of efforts.

### *Custody Evaluations*

The evaluation is conducted by the Court Social Worker. Generally for a two parent custody evaluation, the court social worker has a joint interview (if parents are comfortable meeting together, desire joint custody, and there is no allegations of domestic violence), an individual interview with each parent in the office (at the court). The social worker will determine whether a home visit at each parent's home with the children and members of the household is necessary. There are professional collateral contacts for parents and children. The children's therapists are not contacted regarding therapy issues unless there is a child's privilege attorney appointed by the court. There are meetings with the children at each parent's home. Sometimes there are additional meetings with the children at school or a child in day care where they may be observed. There may be a request for a substance abuse/alcohol evaluation or other outside evaluations for parents.

In addition to meetings and observations, the parents are required to submit written materials, and when appropriate, the court file is reviewed and the Department of Social Services is contacted for a Child Protective Service Clearance Check. There may be other steps, such as an interview with grandparents or a visit to a home a parent is moving to shortly. A written report is generated out of the process and the Court has a time stipulation in which the report is to be submitted. A copy of the report is mailed to attorneys. Most evaluations end with the report and recommendations for custody and visitation.

It is hoped that the report may result in the parents considering the children's needs and best interest and come to an agreement for a parenting plan. If not, and the parents go to court, the court social may, by issue of a subpoena, testify in court.

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<sup>2</sup> See attached custody evaluation criteria.

## ***SUPERVISED VISITATION CENTER***

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The Circuit Court opened the Howard County Supervised Visitation Center in January 2008. The center provides a neutral, safe environment for children having contact with non-custodial parents. We provide supervised visits, as well as monitored exchanges. This service requires a court order and a mandatory orientation. There is no fee for this service.

The Center is located at the North Laurel-Savage Multi Service Center in Laurel, Maryland and appointments are necessary. Center hours are Fridays from 4:00 p.m to 7:00 p.m. and Sundays from noon to 4:00 p.m. For more information contact the family law office at (410) 313-2225.

## ***PARENT COORDINATION***

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Beginning in June 2007, the court will maintain a list of parenting coordinators. Parent Coordination is a service designed to assist parents with child rearing after custody has been decided by the court. This service requires the consent of both parties before the court will order participation.

The qualifications for a Parenting Coordinator for the Howard County Circuit Court are: (1) mental health practitioners with parent coordination training, a master's degree, and experience working with families of separation and divorce; (2) attorneys with 40 hour mediation training and 20 hour custody/access mediation training. Parties are responsible for fees. For more information, please call Patricia Bright, LCSW-C at the Court, 410-313-5959.

## ***ADOPTION PROCEDURE***

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### ***INDEPENDENT ADOPTIONS***

The Petition is filed:

1. Upon receipt, clerk's office sends copy of "Adoption Memorandum," DHR form, and Certificate of Adoption from to filing party or counsel.
2. If Petition is accompanied by signed consent(s) from all necessary parties, no show cause is necessary.
3. If any parent has not provided a written consent to the adoption, the petitioner must file a request for a show cause order. The court will issue a show cause order. The Petitioner must serve the show cause on that parent(s) within 90 days of its issuance. Petitioner must file proof of service with the court, as with any case.
4. The parent has 30 days from the date of service of the show cause to file a notice of objection to the adoption, if the parent lives in Maryland. If the parent is served out of state, he or she has 60 days from the date of service to file a notice of objection. For a parent served outside the USA, the time to file notice of objection is 90 days from the date of service.
5. Each file will be evaluated by the Office of the Family Law Coordinator to determine whether all necessary documents have been filed in the proper form. If the filing is incomplete, a copy of the Adoption worksheet will be forwarded to Petitioner as notice of the missing or incomplete material.
6. Upon receipt of the needed information, uncontested adoptions will be referred to the Court Social Worker for review to determine whether a home study investigation will be required. Home Study Investigations take 90-120 days from the date of the order.
7. Once the investigation is complete (or it has been determined that no investigation is necessary) and the necessary consents have been filed (or the time for filing of objection to the show cause order has passed), the petitioner should send a letter to the court request a hearing. The file will again be referred to the Office of the Family Law Coordinator.
8. In the event that a party contests the adoption, the case will proceed to a scheduling conference with the family case coordinator. If necessary a pre-hearing conference will be set with the adoption judge to determine whether any party or the adoptee is entitled to have an attorney appointed under the law, or whether a parent shall be examined to determine whether examination of a parent will be ordered to determine whether the parent is capable of effectively participating in the case without court appointed counsel. In addition, at the scheduling conference, discovery deadlines will be set, the parties will be given the option of participating in mediation, and a

settlement conference will be set.

9. If the parties do not resolve the matter at the time of the settlement conference, the case will be set before a judge for trial.
10. In no event shall an order of adoption be entered before expiration of the time for filing objection.
11. If the case is not contested, a hearing date will be set by the Family Law Coordinator without a scheduling conference, and the adoption file will be forwarded to the masters for pre-hearing review .

### CUSTODY EVALUATION CRITERIA

1. Allegations of the children's safety with a parent. (Allegations of child abuse and neglect should be reported to Howard County Department of Social Services.
2. Current domestic violence between the parents. (police called at exchanges)
3. Allegations made a parent is not able to provide care and supervision to the children. (mental health concerns)
4. Child/children have special needs and the parents need to have specific skills or resources to care for the children.
  - \_\_\_\_\_ Physical health condition
  - \_\_\_\_\_ Mental health condition
  - \_\_\_\_\_ Privilege attorney for child's therapy
  - \_\_\_\_\_ Education or learning problems
  - \_\_\_\_\_ Behavior or conduct problems
5. The children need a voice and there will be no child's attorney. This may include a child's alienation from a parent or a reunification situation.
6. Allegations made that a home is considered not suitable by a parent.
7. A parent is planning to relocate.
8. A modification requested because of the custodial parent's inability to provide care and supervision to the child because of change in the needs of the child.
9. There is high conflict between the parents and the children are being used.
10. The parents' conflict is having an impact on the child ability to function with day-to-day activities, school, friends, and well-being

Court custody evaluations should not be made for the following reasons:

1. Alcohol or substance abuse evaluations for the parents need to be made.
2. A court appointed psychologist is conducting an evaluation.
3. The parents are going to mediation with the belief that they can resolve the custody/access issues.
4. An update of a previous custody evaluation is needed.  
(An evaluation with another evaluator needs to be secured.)
5. There is conflict between the parents but the children are not a part of the conflict and doing well.
6. The child has a mental health therapist or child's best interest attorney.
7. The conflict is about child support

Patricia A. Bright, LCSW-C  
6/23/06

## DIVORCE PROCEDURE ADDENDUM

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This section will apply to limited and absolute divorces cases that settle prior to a scheduled settlement conference or settle during a settlement conference.

If parties settle prior to the settlement conference and want to appear for the conference to place testimony on the record, the parties must:

1. Contact the ADR coordinator, (410) 313-3053, prior to the scheduled conference to advise her that the case has settled and parties would like to go forward with an uncontested hearing.
2. The ADR coordinator will advise counsel and parties where to report in the courthouse. Testimony will be taken that day, however depending on the days docket, parties should allow time to wait for an available courtroom.
3. The Plaintiff should have a corroborating witness available at the time of the conference/hearing.

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If parties settle prior to the settlement conference and parties want to remove a settlement conference from the docket, the following procedure will apply. Please note this section will only apply to cases:

- A. Originally filed as a limited divorce, parties do not wish to proceed with a limited divorce and they do not have grounds for an absolute divorce; or
- B. The case was originally filed as absolute divorce with fault grounds; now parties wish to proceed on separation grounds and the time has not lapsed.

Cases will not be removed from the docket based on a phone call. Parties must submit all necessary paperwork and comply with the procedures listed below. If you have any questions regarding this procedure, you may contact the family law office (410) 313-2225.

### Limited Divorces

If a limited divorce case settles and parties do not wish to obtain a judgement for limited divorce, the following procedure must be followed:

Updated 3/2008

1. Contact the ADR coordinator, Jennifer Bowman (410) 313-3053 to let her know the matter has settled.
2. Submit the attached Joint Request to Remove and the attached Consent Order, as well as the parties agreement, to the clerk's office. The documents must be fully executed original pleadings and cannot be faxed. The clerk will docket the documents, attach them to the file and timely deliver the file to the ADR office.
3. The ADR coordinator will review and forward to the administrative judge if all required documents are included. Upon receipt, the administrative judge will review and determine whether the matter may be removed from the docket.
4. The ADR coordinator will notify parties whether the matter has been removed from the docket. The Consent Order will be signed by the Administrative Judge and the case will close. If parties subsequently file a supplemental or amended complaint for absolute divorce they may do so in the same case number and the moving party will be responsible for any associated court costs.

If parties can not timely submit any of the above, everyone must appear for the settlement conference. At that time, parties can submit an agreement or go forward with the conference.

#### Absolute Divorce

If an absolute divorce case settles prior to a settlement conference, however, the parties do not have grounds to proceed with an uncontested divorce hearing, the following procedure must be followed:

- Contact the ADR coordinator, Jennifer Bowman, (410) 313-3053, to let her know the matter has settled.
- Submit the attached Joint Request to Remove and the attached Consent Order, as well as the parties' agreement, to the clerk's office. The documents must be fully executed original pleadings and cannot be faxed. The clerk will docket the documents and attach them to the file and timely deliver the file to the ADR office.
- The ADR coordinator will review and forward to the administrative judge if all required documents are included. Upon receipt, the administrative judge will review and determine whether the matter may be removed from the docket. If the matter is removed, the case

will be scheduled for an uncontested divorce hearing approximately *45 days from the date of separation*.

- The ADR coordinator will notify parties if the matter has been removed from the docket.
- Parties must file supplemental pleadings prior to, or on the day of the uncontested hearing. Parties may file in the same case number, however, the moving party will be responsible for any associated court costs.

If parties can not timely submit any of the above, everyone must appear for the settlement conference. At that time, parties can submit an agreement or go forward with the conference.

|     |           |   |   |   |   |   |               |   |   |   |
|-----|-----------|---|---|---|---|---|---------------|---|---|---|
|     |           |   |   |   |   | * | IN THE        |   |   |   |
|     | Plaintiff |   |   |   |   | * | CIRCUIT COURT |   |   |   |
| vs. |           |   |   |   |   | * | FOR           |   |   |   |
|     |           |   |   |   |   | * | HOWARD COUNTY |   |   |   |
|     | Defendant |   |   |   |   | * | Case Number   |   |   |   |
|     | *         | * | * | * | * | * | *             | * | * | * |

**JOINT REQUEST TO REMOVE THE  
SETTLEMENT CONFERENCE FROM THE DOCKET**

The parties agree that this matter was originally filed as a limited divorce and is now uncontested to all issues; they further agree that they have read the statements below and have checked all numbers that apply to this case. **Parties must attach a fully executed original consent order/separation agreement to this Request.**

Grounds for divorce \_\_\_\_\_ Separation date (if appropriate) \_\_\_\_\_

1. \_\_\_\_\_ The settlement conference scheduled for \_\_\_\_\_ shall be removed from the docket.
2. \_\_\_\_\_ Parties withdraw any prayer for a Limited Divorce.
3. \_\_\_\_\_ Defendant stipulates that all pending counter-complaints are dismissed upon execution of the attached consent order.
4. \_\_\_\_\_ Child support has been established in compliance with the child support guidelines. **If this line is checked, this joint request may not be filed unless a completed child support guidelines worksheet is attached.**

If this request is granted, parties acknowledge that any scheduled court event will be removed from the court docket and the above referenced case may be closed. If parties subsequently file a supplemental or amended complaint for absolute divorce, the moving party will be responsible for any associated court costs.

|                                                  |                                                  |
|--------------------------------------------------|--------------------------------------------------|
| Plaintiff or Plaintiff's Attorney<br>(signature) | Defendant or Defendant's Attorney<br>(signature) |
|--------------------------------------------------|--------------------------------------------------|

Granted: \_\_\_\_\_  
 Denied: \_\_\_\_\_

|     |           |   |   |   |   |   |                 |   |   |     |
|-----|-----------|---|---|---|---|---|-----------------|---|---|-----|
|     |           |   |   |   |   |   | * IN THE        |   |   |     |
|     | Plaintiff |   |   |   |   |   | * CIRCUIT COURT |   |   |     |
| vs. |           |   |   |   |   |   | * FOR           |   |   |     |
|     |           |   |   |   |   |   | * HOWARD COUNTY |   |   |     |
|     | Defendant |   |   |   |   |   | * Case Number   |   |   |     |
| *   | *         | * | * | * | * | * | *               | * | * | *** |

CONSENT ORDER

The Circuit Court for Howard County does hereby order that, on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

The parties have entered into an agreement, attached hereto, which is incorporated, but not merged, into this Consent Order; and further

The parties have withdrawn all pending prayers for Limited Divorce Relief; and further

The Defendant's Counter-Complaint is dismissed; and further

The clerk's office shall close this case after this order is signed. Pursuant to Md. Rule 9-202 (c) parties may amend the complaint to include a ground for divorce that by reason of the passage of sufficient time has become a ground for divorce, file in the open case number and pay any associated filing fees; and it is further

Ordered that the settlement conference scheduled for \_\_\_\_\_ and any other scheduled court event scheduled for \_\_\_\_\_ shall be removed from the docket; and it is further

\_\_\_\_\_  
ADMINISTRATIVE JUDGE

Family Law Differentiated Case Management Plan  
Guardianship Section

Introduction

The Types of Guardianship covered by this section are governed by Title 10 of the Md Rules and Estates and Trusts Article sections §13-704 to 13-710, including :

- I. Guardianship of a Minor
- II. Guardianship of the Person/Adult
- III. Guardianship of the Property
- IV. Specific Transactions
- V. Emergency procedures

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**I. GUARDIANSHIP OF A MINOR**

This section does not apply to cases in which the Department of Social Services (DSS) has intervened in order to protect a child, i.e. the child has been determined in need of assistance (CINA). DSS will not get involved if a child is safe (i.e. a third party family member already has custody of the child.) Therefore, attached is a copy of a guide for unrepresented litigants which lists the basic requirements needed to file a petition for guardianship of a minor.

Additionally, the court has free legal assistance for low income individuals to determine whether a petition for guardianship or a complaint for custody should be filed (see below for contact information) and the school board has kinship care forms when a child meets the statutory requirements of kinship care.

The procedure for a Petition for Guardianship of a Minor (under age 18) is as follows:

- A. The Petition is filed, see Md. Rule 10-201;
- B. The court issues a show cause order with a scheduled hearing date in approximately 45 days;
- C. Parties and counsel should appear for the hearing. If the petition is uncontested, the merits of the case may be heard at the show cause hearing and a final judgment may be issued. However, the Judge may order the court social worker to perform an assessment, a best

- interest attorney appointment or any other service referrals at an uncontested or contested hearing;
- D. If the petition is contested, parties will receive a trial date and they may additionally receive an order for the court social worker to perform an assessment, a best interest attorney appointment or any other necessary service referrals.
  - E. After the guardianship is granted, the guardian of the person must file an annual report with the Court which should address whether the grounds for the guardianship still exist. The Trust Clerk will monitor these cases, review the annual report and report to the Judge as necessary.

If a guardianship order is needed for the purposes of **school enrollment**, please indicate such in a cover letter to the court accompanying the petition. School enrollment is not an emergency; however, if the cover letter indicates that school is an issue, a prompt or temporary hearing may be scheduled.

There are no state forms to assist pro se litigants with a petition for guardianship of a minor. Free legal assistance is available to low income individuals who need assistance with enrollment issues in Howard County. Contact the family law office (410) 313-2225 for income eligibility and the days and times of the free assistance program.

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## **II. GUARDIANSHIP OF A PERSON (ADULT)**

This section applies to Petitions for Guardianship of the Person, for Adults represented by private attorneys or self-represented individuals.

- A. A petition for Guardianship of a Person is filed. In a Petition, the petitioner must be prepared to demonstrate by clear and convincing evidence the requirements of Md. Code Ann., Est. & Trusts sec. 13-707. This includes proving that there are no less restrictive alternatives available for the alleged disabled person. The content of the Petition must comply with Md. Rule 10-201, and include:
  - A. Interested persons see Estates and Trusts §13-101 (j) and Md. Rule 10-103(f);
  - B. Least restrictive alternatives;
  - C. Physicians certificates (see Md Rule 10-202);
  - D. Nature, value and location of the alleged disabled person's

- (ADP) property.
- E. Two certificates of incapacity as set forth in Md. Rule 10-202.

Please note, the requirements of the least restrictive alternatives and physicians certificates are only necessary in guardianship of the person (adult) and unnecessary in guardianship of a minor case.

B. A Show Cause Order is issued:

If the Petition is in compliance with all requirements, a show cause order will be issued by the court. The order is a court form order (see attached) and shall include:

- A. An Order of appointment of an attorney for the alleged disabled person (ADP) (which will be mailed with the show cause order from the Clerk's Office) The order of appointment will be made to either our state contracted attorney, or if the ADP has income or assets, the court may use its discretion to appoint a private attorney;
- B. Show cause hearing date (approximately 45 days from issuance)

The Court will send the Show Cause Order and the Appointment order to the Petitioner. The petitioner must serve all interested parties with a copy of the Petition, the Show Cause Order, Order Appointing Counsel, Notice to Interested Person and Advice of Rights. The Petitioner must serve ADP, unless counsel for the ADP has agreed to accept service. An affidavit of service should be submitted for proof of service on all interested parties.

C. The Show Cause Hearing and Guardianship Trials:

If service has not been effectuated on all interested parties, petitioner, or any interested party, should submit a line to the Clerk's Office requesting a new show cause order with a new hearing date. However, if service has not been effectuated, despite diligent attempts, parties should appear at the scheduled date.

If the case is uncontested, the show cause hearing will serve as the final guardianship hearing.

If the case is contested, the parties must appear at the show cause hearing and will receive a trial date, possible orders for mediation, a scheduling order upon request, and any other outstanding matters will be addressed at the show cause hearing. The ADP has a right to a jury trial on the issue of capacity and this may be waived at the show cause hearing.

D. Post Guardianship Requirements:

After a final judgement is entered appointing a Guardian of the Person, the Guardian must submit an annual report fulfilling the requirements in compliance with Estates and Trusts §13-708 (b) (7) and Maryland Rule 10-206. The report should address whether the grounds for the guardianship still exist. The Trust Clerk shall monitor open guardianship cases and if the annual report is not submitted, a hearing will be scheduled.

E. Termination:

Upon petition, the court may terminate a Guardian of the Person for good cause or death. See Maryland Rule 10-301.

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### **III. GUARDIANSHIP OF PROPERTY**

A. The Petition for Guardianship of the Property is filed and the petitioner must be prepared to demonstrate by a preponderance of the evidence requirements of Estates and Trusts §13-201. The content of the Petition must comply with Rule 10-301, including:

1. Interested persons see Estates and Trusts §13-101 (j) and Md. Rule 10-103(f);
2. Nature, value and location of the alleged disabled person's (ADP) property.

B. A Show Cause Order is issued:

If the Petition is in compliance with all statutory requirements, the court will issue a show cause order. The order is a court form order (see

attached) and shall include  
a show cause hearing date (approximately 45 days from issuance).

The Court will send the Show Cause Order and the Appointment order to the Petitioner. The petitioner must serve all interested parties with a copy of the Petition, the Show Cause Order, Order Appointing Counsel, Notice to Interested Person and Advice of Rights. The Petitioner must serve ADP, unless counsel for the ADP has agreed to accept service. An affidavit of service should be submitted for proof of service on all interested parties.

C. The Show Cause Hearing and Guardianship Trials:

If service has not been effectuated on all interested parties, petitioner or any interested party, should submit a line to the clerk's office requesting a new show cause order with a new hearing date. However, if service has not been effectuated, despite diligent attempts, parties should appear at the scheduled date.

If the case is uncontested, the show cause hearing will serve as the final guardianship hearing. Additionally, the petitioner may request that the court waive the hearing requirement in uncontested cases.

If the case is contested, the parties will receive a trial date, possible orders for mediation, a scheduling order upon request, and any other outstanding matters will be addressed at the show cause hearing.

Bonds may be set at the conclusion of trials or uncontested hearings, and are usually mandatory in property cases. If the petitioner is unable to qualify for a bond, that person may not be able to serve as guardian of the property.

D. Post Guardianship Requirements:

After a guardianship order is signed, certain reporting requirements are mandatory. Guardians of the property must file an initial inventory (attached) 60 days after the appointment (see Md Rule 10-707). Additionally, guardians of property must comply with Estates and Trusts §15-102 and file an annual accounting. Furthermore, guardians of the property should obtain court approval prior to payment of any compensations or commissions.

#### **IV. SPECIFIC TRANSACTIONS**

There are some circumstances in which a guardianship of the property appointment is unnecessary, however a specific transaction must take place regarding an individual's property. Estates and Trusts Article §13-204 states that if there is a basis for the court assuming jurisdiction over the property of a minor or a disabled person, then the court, without appointing a guardian, may authorize a specific transaction "with respect to the property, service or care arrangement of the...person." Examples of these transactions are identified in Estates and Trusts Article §13-204.

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#### **V. EMERGENCY PROCEDURES**

Upon Petition, the Court may issue an order for emergency protective services, see Md. Code Ann., Est. And Trust §13-709.

For all other cases, the court will consider emergency petitions regarding life threatening emergencies and/or property/financial emergencies. The Clerk shall immediately bring an emergency petition to the attention of a Judge. The Judge may order emergency relief, schedule the matter for a conference call or direct Calendar Management to schedule the matter for an emergency hearing.

In addition to the petition, please include for filing a cover letter that clearly indicates an emergency exists and should be reviewed by the Court immediately. Additionally, the Calendar Management Office should be contacted at (410) 313-3057 when an emergency guardianship is filed.

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#### **THE TRUST CLERK**

The Trust Clerk plays an integral role in guardianship cases. The Clerk shall review the annual accounting. Any discrepancies are brought to the Court's attention and the matter may be set for a hearing. If the annual accounting is in proper order, the Trust Clerk shall prepare an order approving the accounting for the judge.

In cases involving guardianship of the person, the Trust Clerk shall also review the annual report. If satisfied that the grounds for the original appointment continue to exist, the Court shall renew the appointment. However, if the Clerk

believes the grounds for the guardianship no longer exist, the matter shall be scheduled for a hearing.

In the event a guardian needs to terminate the guardianship, the Court, and if appropriate, all interested persons, shall be notified and a hearing may be scheduled.

**IN THE CIRCUIT COURT FOR HOWARD COUNTY, MARYLAND**

In the Matter of

(Name of minor)

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Case No.

**ORDER TO SHOW CAUSE – GUARDIANSHIP OF A MINOR**

Upon consideration of the verified Petition for Appointment of Guardian of the Person and/or Property, it is this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by the Circuit Court for Howard County, Maryland,

**ORDERED**, that \_\_\_\_\_, the minor (age 10 or more) **AND** the

\_\_\_\_\_, parent,  \_\_\_\_\_, guardian **OR**

\_\_\_\_\_, person having care or custody of the minor, **AND**

\_\_\_\_\_, another person, if the minor resides with the petitioner(s)

**SHOW CAUSE** in writing on or before the \_\_\_\_\_ day of \_\_\_\_\_, 2008, why the relief prayed in the Petition should not be granted, **PROVIDED** that a copy of any related Petition or document is served with a copy of this Order on or before the \_\_\_\_\_ day of \_\_\_\_\_, 2008; and it is further,

**ORDERED**, that, pursuant to Maryland Rules 10-203 and 2-121(a), the petitioner(s) serve the person(s) named above by:

delivering to the person(s) to be served a copy of this Order and any related Petition or

document; and/or

leaving a copy of this Order and any related Petition or document at the individual's house or

usual place of abode with a resident of suitable age and discretion; and/or

[ ] by mailing to the person(s) to be served a copy of this Order and any related  
Petition or

document by certified mail requesting Restricted Delivery – show to whom, date,  
address of

delivery; and it is further,

**ORDERED**, that, pursuant to Maryland Rule 10-203(b) and/or 10-302(b), the  
petitioner(s) serve

a copy of any related Petition or document on the attorney for the minor, if the minor  
is represented, by mailing a copy of the Petition and Show Cause Order by ordinary  
mail; **AND** any interested person by mailing a copy of the Petition, Show Cause  
Order, and a Notice to Interested Persons by ordinary mail and certified mail on or  
before the \_\_\_\_\_ day of \_\_\_\_\_, 2008; and it is further,

**ORDERED**, that the above matter stand for a hearing on the \_\_\_\_\_ day  
of \_\_\_\_\_

\_\_\_\_\_, 200\_\_\_\_\_ at \_\_\_\_\_. for one half hour.

\_\_\_\_\_  
**JUDGE**

**Circuit Court for Howard County,**

**Maryland**

**IN THE CIRCUIT COURT FOR HOWARD COUNTY, MARYLAND**

In the Matter of

(Name of alleged disabled person)

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- - -  
|

Case No.

**ORDER TO SHOW CAUSE – GUARDIANSHIP OF ALLEGED DISABLED PERSON**

Upon consideration of the verified Petition for Appointment of Guardian of the Person and/or Property of an alleged disabled person, it is this \_\_\_\_\_ day of \_\_\_\_\_ 2008, by the Circuit Court for Howard County, Maryland,

**ORDERED**, that \_\_\_\_\_, the alleged disabled person, **AND** any other interested person **SHOW CAUSE** in writing on or before the \_\_\_\_\_ day of \_\_\_\_\_, 2008, \_\_\_\_\_ why the relief prayed in the Petition should not be granted, **PROVIDED** that a copy of any related Petition or document accompanied by an Advice of Rights is served with a copy of this Order on or before the \_\_\_\_\_ day of \_\_\_\_\_, 2008; and it is further,

**ORDERED**, that, pursuant to Maryland Rules 10-203 and 2-121(a), the petitioner(s) serve the person(s) named above by:

- delivering to the person(s) to be served a copy of this Order and any related Petition or document accompanied by an Advice of Rights; and/or
- leaving a copy of this Order and any related Petition or document accompanied by an Advice of Rights at the individual's house or usual place of abode with a resident of suitable age and discretion; and/or
- by mailing to the person(s) to be served a copy of this Order and any related Petition or document accompanied by an Advice of Rights by certified mail requesting Restricted Delivery – show to whom, date, address of delivery; and it is further,

**ORDERED**, that pursuant to Maryland Rule 10-203(b) and/or 10-302(b), the petitioner(s) serve a copy of any related Petition or document on the attorney for the alleged disabled person by mailing a copy of the Petition and Show Cause Order by ordinary mail; **AND** any interested person by mailing a copy of the Petition, Show Cause Order, and a Notice to Interested Persons by ordinary mail and certified mail on or before the \_\_\_\_\_ day of \_\_\_\_\_, 2008; and it is further,

**ORDERED**, that the above matter stand for a hearing on the \_\_\_\_\_ day of \_\_\_\_\_, 2008 at \_\_\_\_\_ a.m. for one half hour.

\_\_\_\_\_  
**JUDGE**  
**Circuit Court for Howard County, Maryland**

**PHYSICIAN'S CERTIFICATE**

**NOTE TO PHYSICIAN:** This certificate will be used in a legal proceeding to request appointment of a guardian for the patient named below. The original certificate must be submitted to the court. The information it contains must be specific and detailed. It must be based on your personal examination of the patient. Please address each issue contained in the certificate including the nature, cause, extent and probable duration of any disability that your patient may have which interferes with his/her ability to make responsible decisions about health care, food, clothing, shelter or property. It is possible that your testimony about this information *may* be required at a hearing. Thank you for your concern and cooperation.

PATIENT'S NAME: \_\_\_\_\_

PATIENT'S ADDRESS: \_\_\_\_\_

I, \_\_\_\_\_  
(physician's name)

\_\_\_\_\_ (address)

\_\_\_\_\_ (telephone number) am a \_\_\_\_\_ (year) graduate of \_\_\_\_\_

\_\_\_\_\_ School of Medicine. I am licensed to practice

medicine in the United States. I am Board Certified in \_\_\_\_\_

\_\_\_\_\_. My specialty is \_\_\_\_\_.

I have known this patient for \_\_\_\_\_ (time) and \_\_\_\_\_

\_\_\_\_\_  
(give a brief history of your involvement with the patient.)

**Examination and Diagnosis**

I personally examined the above-named patient on \_\_\_\_\_

\_\_\_\_\_, (include date of most recent examination, as well as any other relevant

visits). The most recent examination lasted approximately \_\_\_\_\_ (time).

I performed or ordered the following tests and/or procedures: \_\_\_\_\_

The patient exhibited the following symptoms:

Physical: \_\_\_\_\_

Mental: \_\_\_\_\_

I prescribed the following medications: \_\_\_\_\_  
\_\_\_\_\_

**Existence of Mental Disability**

Based upon my personal examination of this patient, it is my professional opinion within a reasonable degree of medical certainty that he/she:

[ ] **does not have** a mental disability which interferes with the ability to make or communicate responsible decisions regarding health care, food, clothing, shelter or administration of property.

[ ] **has** a mental disability which interferes with the ability to make or communicate responsible decisions regarding health care, food, clothing, shelter or administration of property.

That disability is diagnosed as \_\_\_\_\_  
\_\_\_\_\_

The **nature** of the disability is \_\_\_\_\_  
\_\_\_\_\_

The **cause** of the disability is \_\_\_\_\_  
\_\_\_\_\_

The **extent** of the disability is \_\_\_\_\_  
\_\_\_\_\_

The **probable duration** of the disability is \_\_\_\_\_  
\_\_\_\_\_

The usual **treatments** for the disability are \_\_\_\_\_  
\_\_\_\_\_

The patient [ ] **does** [ ] **does not** require institutional care in a mental health facility as a result of a mental disability.

**Need for Guardian of Person**

[ ] In my professional opinion within a reasonable degree of medical probability that the patient has a disability which prevents her/him from making or communicating **any** responsible decisions concerning her/his **person**.

[ ] In my professional opinion within a reasonable degree of medical probability that the patient has a disability which prevents her/him from making or communicating **some** responsible decisions concerning her/his **person**. The patient, for example, is able to make decisions

regarding: \_\_\_\_\_;  
\_\_\_\_\_ ; but is unable to make  
decisions regarding: \_\_\_\_\_

**Need for Guardian of Property**

[ ] It is my professional opinion within a reasonable degree of medical probability that the patient has a disability which prevents her/him from making or communicating **any** responsible decisions concerning her/his **property**.

[ ] It is my professional opinion within a reasonable degree of medical probability that the patient has a disability which prevents her/him from making or communicating **some** responsible decisions concerning her/his **property**. The patient, for example, is able to make decisions regarding: \_\_\_\_\_;  
\_\_\_\_\_ ; but is unable to make decisions  
regarding: \_\_\_\_\_

**Ability to Consent to Appointment of Guardian**

[ ] It is my professional opinion within a reasonable degree of medical probability, that the patient **has** sufficient mental capacity to understand the nature of guardianship and **can** consent to the appointment of a guardian.

[ ] It is my professional opinion within a reasonable degree of medical probability, the patient **does not have** sufficient mental capacity to understand the nature of guardianship and **cannot** consent to the appointment of a guardian.

**I solemnly swear and affirm under the penalties of perjury, that all of the statements set forth in the foregoing Physician's Certificate are true and correct to the best of my knowledge, information and belief.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Physician's Signature

\_\_\_\_\_  
Printed Name

## Requirements for Guardianship of Minor Petitions

The Maryland Courts have generated forms for many types of family law cases, however there is NO state form for Guardianship Petitions. In order to assist you in filing your petition the following guidelines were established. Please note, it is always helpful to have a private attorney assist you in these types of cases. If you can not afford a lawyer, the court offers free legal assistance for family law matters. Please contact the family law office for further information (410) 313-2225.

The procedure for guardianship cases is outlined in the domestic differentiated cases management (DCM) plan. If you choose to proceed without legal assistance, it is important to read the following information in addition to the DCM plan.

The petition shall be captioned “In the Matter Of \_\_\_\_\_” and needs to be signed and verified by all petitioners and contain at least the following:

- 1) The petitioner’s name, address, age, and telephone number;
- 2) The petitioner’s familial or other relationship to the minor;
- 3) Whether the person who is the subject of the petition is a minor;
- 4) The reasons why the court should appoint a guardian who will have legal custody of the person (in detail);
- 5) An identification of any document nominating a guardian for the minor or constituting a durable power of attorney;
- 6) If a guardian or conservator has been appointed in another proceeding, the name and address of the guardian or conservator and the court that appointed the guardian or conservator. If a guardianship or conservatorship proceeding was previously filed in any other court, the name and address of the court, the case number, if known, and whether the proceeding is still pending in that court;
- 7) The name, age, sex, and address of the minor, the name and address of the persons with whom the minor resides, and if the minor resides with the petitioner, the name and address of another person on whom service can be made;
- 8) To the extent known or reasonably ascertainable, the name, address, telephone number, and nature of interest of all interested persons and all other exercising any control over the person and/or their property;
- 9) If the minor is represented by an attorney, the name, address, and telephone number of the attorney;
- 10) A statement that the certificates of Rule 10-202 are attached, if not an explanation of their absence.
- 11) A statement of the relief sought.

The burden falls upon the petitioner to establish the identity of the minor and to provide this Court with evidence to support a petition of guardianship of a minor. Such evidence should include, but is not limited to:

1. A copy of the minor’s birth certificate, and

2. Signed, notarized consents of both parents.

If signed, notarized consent of the parents is not provided, a show cause order will need to be served on the parents, as well as all interested parties pursuant to Rule 10-203.