

ST. MARY'S COUNTY CIRCUIT COURT

Family Law  
Differentiated Case Management Plan

September 1, 2017

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## **Civil Differentiated Case Management Plan**

This Family<sup>1</sup> Differentiated Case Management (DCM) Plan is established in accordance with Maryland Rule 16-302(b) which requires the County Administrative Judge to develop and, upon approval by the Chief Judge of the Maryland Court of Appeals, implement and monitor a case management plan for the prompt and efficient scheduling and disposition of cases filed in the circuit court.

### **Statement of Purpose**

From the commencement of litigation to its resolution, whether by trial or settlement, any elapsed time other than reasonably required for pleadings, discovery, and court events, is unacceptable and should be eliminated. To enable just and efficient resolution of cases, the Court should control the pace of litigation. A strong judicial commitment is essential to reducing delay and once achieved, maintaining a current docket. (Standard 250, ABA Standards Relating to Court Delay Reduction<sup>1</sup>).

It is the purpose of this DCM Plan to provide an effective case management system that will assure:

1. Equal treatment of all litigants by the Court;
2. Timely disposition of cases consistent with circumstances of the individual case;
3. Enhancement of the quality of the litigation process; and
4. Public confidence in the court as an institution.

Consistent with the Case Time Standards adopted by the Judicial Council, Constitutional Requirements, and applicable Maryland Rules, it is the goal of this Plan to ensure that 98% of family cases, with the exception of limited divorce cases, be concluded within 12 months (365 days) of the filing date. Limited divorce cases are to be concluded within two years (730 days) of the filing date. In order to achieve this goal, the Circuit Court is committed to resolving different categories of cases within a regular and predictable time frame as warranted by the needs of those cases. For simpler and many typical cases, the time frame may be shorter than 12 months.

## **Case Management**

Pursuant to Maryland Rule 16-302(b)(1)(A), the County Administrative Judge supervises all aspects of civil case management, and is ultimately responsible for the implementation of this DCM Plan. The County Administrative Judge authorizes certain judges and family magistrates to hear various family law matters, and makes final decisions whether, and to whom, a case gets assigned. These duties are delegated to the assignment clerk to implement.

All judges and family magistrates must comply with this Plan and implement such provisions in their rulings. Individual judges and family magistrates shall effectively manage cases assigned to them through dockets or special assignment cases. The scheduling of cases must always be coordinated with the Assignment Office. All cases should be managed, to the extent possible, consistent with the provisions of this Plan, including adherence to the Maryland case time standards.

## **Family Law Casetype Summary**

This DCM Plan includes the following family law casetypes: absolute divorce; limited divorce; custody; visitation; child support (including child support establishment, modification, and enforcement; paternity, and Uniform Interstate Family Support Act cases); annulment; enrollment and enforcement of a foreign decree; adoption; protection from domestic violence; guardianship of the person and/or property of a minor; guardianship of the person and/or property of a disabled adult; change of name; special juvenile immigrant status cases; and contempt proceedings to enforce existing family law case orders.

Family magistrates predominately preside over the following family law casetypes:

1. Divorce, annulment, and alimony;
2. Granting or modification of child custody and/or visitation;
3. Granting or modification of temporary alimony;
4. Granting or modification of child support *pendente lite*;
5. Preliminary or *pendente lite* possession or use of the family home or family use personal property;
6. *Pendente lite* custody of or visitation with children;
7. Constructive civil contempt such as: child access disputes, constructive civil contempt by reason of non-compliance with an order or judgment relating to custody of or visitation with a minor child, the

- payment of alimony or support, and/or the possession or use of the family home or family-use personal property;
8. Counsel fees and assessment of court costs in any matter referred to a family magistrate; and
  9. Stay of an earnings withholding order.

Judges may preside over the aforementioned casetypes, but exclusively hear the following family casetypes:

1. Adoption,
2. Protection from Domestic Violence,
3. Guardianship of the person and/or property of a minor,
4. Guardianship of the person and/or property of a Disabled Adult,
5. Change of Name, and
6. Any contested merits domestic matter, if the case is expected to take more than three hours to try.

### **Family Tracks**

A family law case may follow one of five tracks to resolution. Tracks define: expected case processing events, the timing of events, assignment, and expectation for case duration. Assigning cases to appropriate tracks by early and meaningful screening permits the Court to resolve each case fairly and expeditiously. All cases are referred to family law personnel for review and tracking. The Clerk's Office transfers all Track 1A and 1B cases directly to a judge's chambers for case review and management.

**TRACK ASSIGNMENT CHART**  
**Table 1.1 – Track 1 – Family Expedited**

<b>TRACK</b>	<b>CASE SUBTYPES</b>	<b>CASE DURATION</b>
<b>TRACK 1A Family Miscellaneous Expedited</b>	<ol style="list-style-type: none"> <li>1. Adoptions,</li> <li>2. Protection from Domestic Violence,</li> <li>3. Change of Name,</li> <li>4. Guardianship of the Person/Property of a Minor, and</li> <li>6. Guardianship of the Person/Property of a Disabled Adult</li> </ol>	90 days from case filing
<i>Uncontested Track 1A Family Miscellaneous Expedited cases are 15-30 minute merits hearings before a judge only.</i>		
<b>TRACK 1B Family General Expedited</b>	<ol style="list-style-type: none"> <li>1. Emergency matters, and</li> <li>2. Special Juvenile Immigrant Status Petitions.</li> </ol>	120 days from case filing
<i>Uncontested Track 1B Family General Expedited cases are 15-30 minute merits hearings.</i>		

**Table 1.2 – Track 2 – Family Standard**

<b>TRACK</b>	<b>CASE SUBTYPES</b>	<b>CASE DURATION</b>
<b>TRACK 2 Family Standard</b>	<ol style="list-style-type: none"> <li>1. Contested Divorce, and</li> <li>2. Contested Child Support.</li> </ol>	270 days from case filing
<i>Track 2 Family Standard cases are 45 minutes to 2 hour merits hearings.</i>		

**Table 1.3 – Track 3 – Family Complex**

<b>TRACK</b>	<b>CASE SUBTYPES</b>	<b>CASE DURATION</b>
<b>TRACK 3 Family Complex</b>	1. Contested Custody, Visitation, Property, and/or Alimony issues.	365 days from case filing
<i>Track 3 Family Complex cases are more than 2 hour merits hearings.</i>		

**Table 1.4 – Track 4 – Family Limited Divorce**

<b>TRACK</b>	<b>CASE SUBTYPES</b>	<b>CASE DURATION</b>
<b>TRACK 4 Family Limited Divorce</b>	1. Limited Divorce Cases	Filing to Disposition – 24 months (730 days)
<i>Track 4 Family Limited Divorce Cases are 45 minutes to 4-hour merits hearings.</i>		

**Table 1.5 – Track 5 – Child Support Enforcement Cases**

<b>TRACK</b>	<b>CASE SUBTYPES</b>	<b>CASE DURATION</b>
<b>TRACK 5 Child Support Enforcement</b>	1. All cases involving the Dept. of Social Services Child Support Enforcement Agency	Filing to Disposition – 9 months (270 days)
<i>Track 5 Child Support Enforcement Cases are 15-30 minute merits hearings.</i>		

## **Track Designation**

Track designations are automatically set at the filing of the case in accordance with the information provided on the Civil - Domestic Case Information Report (CC-DCM-004). With the exception of Track 1A Expedited Cases, the plaintiff or plaintiff's counsel is required to file a completed case information report with the complaint, and the defendant or defendant's counsel is required to file one with the answer.

The DCM coordinator will assign all civil cases, as described within the DCM Plan, to one of five tracks. In the event a party or counsel disagrees with the designated track assignment, the party or counsel may submit a written request which states the reason(s) to change the track assignment. The parties or counsel shall send requests to change the track designation to the attention of the DCM coordinator and all other parties within 30 days of filing the complaint. Counsel or self-represented litigants may file a written response within 15 days from the issuance of the notice, indicating whether they concur with the request to change the track assignment. If counsel/parties cannot reach an agreement on a track assignment, the County Administrative Judge shall make the final decision on the designations.

## **Miscellaneous Provisions Applicable to all Tracks**

The filing of amended complaints, counter-complaints, cross-claims, third-party claims, and/or the joinder of additional parties shall not change a scheduling order, except upon motion, for good cause shown.

If any date by which an action is due under this Plan falls on a weekend, legal holiday, or unanticipated closing of the St. Mary's County Circuit Court by Order of the County Administrative Judge, the date to complete such action will extend to the next business day.

## **CASE INITIATION**

To file a family law case, a litigant must follow these steps:

1. **File a Complaint.** The plaintiff must provide a service copy of the complaint, plaintiff's completed case information report, and a blank case information report for each defendant. The following actions do not require a case information report:

- a. Contempt for failure to pay child support, when filed by a government agency;
- b. Domestic violence relief under Annotated Code of Maryland, Family Law Article, Sections 4-501 through 4-516, including Maryland Rule 3-326(c) transfers;
- c. Guardianship, (Maryland Rules 10-201 through 10-305); and
- d. Paternity, when filed by a government agency (Annotated Code of Maryland, Family Law Article, Sections 5-1001 through 5-1048).

Failure to file a case information report will result in the Court assigning the case to a track which may be contrary to the desire of a party or counsel.

**2. Pay the Filing Fee.** Refer to the *Summary of Charges, Costs and Fees of the Clerks of the Circuit Court* for fees. The filing fee for most civil complaints is \$165.00. (See *Civil, New Case*.) Filing fees may be waived by the Court, based on the following conditions:

- a. Filing by the Plaintiff of a *Request for Waiver of Prepaid Costs* (CC-DC-089);
- b. Representation by a civil legal aid lawyer or attorney signed via a pro bono organization such as Maryland Volunteer Lawyers Services; and
- c. Other determination by the Court.

**3. Notify the Other Party (defendant).** The plaintiff is required to attempt to notify the defendant that a complaint has been filed against the defendant. The clerk will issue a summons to officially notify the defendant that a suit has been filed. The plaintiff must have the summons and all pleadings filed served on the defendant within 60 days. After the time limit has expired, the summons is no longer valid, and must be renewed by motion of the plaintiff.

**4. Proof of Service.** The plaintiff must file an Affidavit of Service of Process to prove that the defendant(s) has been served.

**5. Alternative Service.** A Motion for Alternative Service may be granted only if the opposing party cannot be found after all reasonable attempts have been exhausted. A Motion and Affidavit to this effect must be filed.

6. **Reissuance of a Summons.** Reissuance of a summons will not prevent the issuance of a Notice of Dismissal under Maryland Rule 2-507 for failure to obtain jurisdiction over a party.

7. **Lack of Jurisdiction.** Between the filing of the complaint and service, the Court may dismiss the case for lack of jurisdiction. If the defendant has not been served after 120 days of the Complaint being filed, the Clerk's Office sends notice to the parties that they have 30 days to file a motion to defer the order of dismissal or the case will be dismissed without prejudice. After the 30 days, the Clerk's Office will dismiss the case. The Clerk's Office makes a docket entry that the case is dismissed for lack of jurisdiction. A written request to defer dismissal under Maryland Rule 2-507 must be filed before the expiration of the 30 days and shall state the specific deferral period sought and the reasons for such request. If the Court grants a motion to defer the order of dismissal, the judge will specify the maximum deferral period.

## **Answer**

Defendants must file an affirmative Answer, typically within 30 days after they are served with a summons for most Circuit Court civil case subtypes. Once an answer is filed by each defendant, these cases are considered to be at issue, and the case shall proceed. In addition, if the defendant seeks to modify any information on the original case information report, or expects to file a counterclaim, cross-claim, or third-party claim, an information report must be filed with the answer.

## **Request for Order of Default**

If the defendant has been served and fails to file an answer by the required time, the plaintiff shall file a *Request for Order of Default*. Upon receipt of either an answer or the granting of an Order of Default, the case will be set for a trial or scheduling conference, as appropriate.

## **Lack of Prosecution**

Following service, cases will be dismissed for lack of prosecution after one year from the last docket entry. Following service, if no answer has been filed, or, once an answer is filed, no other action on the case occurs for a year, the Clerk's Office will send notices to the parties that they have 30 days to file a motion to defer the order of dismissal or the court will dismiss the case without prejudice. The Clerk's Office makes a docket entry that the case is dismissed

without prejudice for lack of prosecution. A written request to defer dismissal under Maryland Rule 2-507 must be filed before the expiration of the 30 days and shall state the reasons for such request and the specific deferral period sought. If the Court grants a motion to defer the order of dismissal, the judge will specify the maximum deferral period in the order.

## **FAMILY CASE MANAGEMENT AND EVENTS**

### **Family Case Management**

A case is considered at issue when an answer is filed, or when an order of default has been entered. Once a case is at issue, it is forwarded to the Assignment Office for the scheduling of a Scheduling Conference or a merits hearing, depending on the type of case.

### **Scheduling Conferences**

A scheduling conference is scheduled for all contested family law cases before the family magistrate within 30 days of the filing of the answer. Cases that appear uncontested or where an order of default is entered will be scheduled for a merits hearing.

At the scheduling conference, a pretrial conference will be set, and the parties will be referred to and ordered to complete the appropriate programs and/or ADR.

The goals of a scheduling conference include the following:

1. Establish track assignments;
2. Determine the contested issues in each case;
3. Determine the need for mediation, investigations, counseling or any other support related services; and
4. Screen high conflict family cases so that the parties and children can be identified for services as early as possible; and

## ***Pendente Lite* Hearings**

*Pendente lite* (pre-judgment) hearings are scheduled for no more than three hours and will be heard by the family magistrate.

## **Family Services**

Family Services includes programs designed to facilitate conflict resolution and improve outcomes in family cases. Some family services programs are mandatory and will be ordered by the Court. Other services and programs are discretionary by referral of the Court, or may be requested by either or both parties. The Director of Family Programs is responsible for managing existing family services, implementing new programs, and identifying community resources beneficial to families involved in a family case. Some family services offered include:

1. Co-parenting classes;
2. Intensive service parenting workshop (high conflict parenting classes);
3. Supervised visitation, monitored exchange, and parenting coordination;
4. Mediation and intensive services mediation;
5. Family support services;
6. Child access investigations;
7. Psychiatric evaluations;
8. Child access evaluations;
9. Substance abuse screenings;
10. Anger management; and
11. Other services as identified by family law personnel.

## **Alternative Dispute Resolution (ADR)**

Parties are encouraged to utilize alternative dispute resolution (ADR) as early in the case management process as possible. ADR may help to reach an early resolution, limit issues, establish damages, or resolve other areas of contention that otherwise impede the progress of a case, such as discovery disputes.

### **1. Time for Completing ADR**

Mediation sessions must be completed prior to the next scheduled hearing date.

## **2. Location of ADR**

Unless otherwise agreed upon by all parties or authorized by the Court, ADR shall occur at a location within St. Mary's County.

## **3. Responsibility of Parties or Counsel**

If the parties reach an agreement prior to the scheduling of, or the date of the scheduled ADR session, the parties shall promptly file a line with the court, with a copy to the ADR practitioner, and take steps to dismiss the case as quickly as possible, prior to the trial date.

### **Discovery**

Procedural and discovery motions as well as any dispositive motions must be filed up to 30 days prior to the pretrial conference. Family motions are normally assigned to the family magistrate.

### **Pre-Trial Conference**

At the pretrial conference, the magistrate will determine which issues remain contested, the number of witnesses expected on each side, whether discovery issues have been resolved, determine if investigations have been completed, evaluate the feasibility of additional mediation sessions, and determine the length of time needed for the hearing. If the parties agree to have their case heard by the family magistrate, a merits hearing shall be scheduled at that time. If the parties request and are entitled to have their case heard by a judge, another pretrial conference and a merits hearing will be set before a judge. Also, cases with an estimated duration in excess of three hours are to be heard by a judge.

### **Final Merits Hearing/Trial**

At the merits hearing, both parties must be prepared to present evidence and call witnesses to testify in support of the action they wish the court to take.

## **Exceptions to a Magistrate's Findings and Recommendations**

For any family law case heard by a family magistrate, the parties may file exceptions within 10 days after recommendations are placed on the record by the magistrate. Exceptions shall be in writing and shall set forth the asserted error with particularity. Within that period or within 10 days after service of the first exceptions filed, whichever is later, any other party may file exceptions. The party filing exceptions must order a transcript or otherwise comply with Maryland Rule 9-208(g).

Exceptions to a magistrate's findings and recommendations will be forwarded to a judge. Upon compliance with the requirements of Maryland Rule 9-208, the case will be set for a hearing before a judge.

## **Ordering Transcripts**

An individual requesting a transcript or audio recording of any court proceeding should complete the Transcript Request Form, which is available on-line or in the Clerk's Office, and send it to the court administrator. The court administrator will disseminate the form to the court reporter/stenographer who will contact the requestor directly with a cost estimate for the completed transcript and/or audio CD.

## **Post Judgment Hearings**

Motions for modification and petitions for contempt in family law cases are reviewed by judge's chambers and may be set before a judge or a family magistrate.

## **Request for Emergency Relief**

An emergency/*ex parte* hearing may be scheduled in the event it is alleged that an immediate substantial injury will result to the parties' child(ren) before a regularly scheduled court event can be held. The following are the procedures for filing or processing a request for emergency relief for a family law matter:

1. The petitioner shall attempt to notify the opposing party/attorney;

2. The petitioner shall file the petition for emergency relief with the Clerk's Office, and include a statement outlining the attempts to notify the opposing party, and the results thereof;
3. The Clerk's Office will notify the Assignment Office of the filing and the file will be reviewed by the first available judge's law clerk to determine if it meets the criteria of a true emergency; and
4. If a true emergency is determined to exist, the case will be set before a judge within 48 hours if possible, and the petitioner shall notify the opposing party/counsel of the hearing date and time, and file an Affidavit indicating what steps were taken to notify them thereof.

Following a hearing on the emergency/*ex parte* petition, the Court will schedule the matter for a scheduling conference before the family magistrate at the next available date.

If the Court determines that the petition does not meet the criteria of a true emergency, then the petition will be marked "not an emergency" and will proceed in the normal course.

There shall be no oral or written *ex parte* communications with the Court by parties or counsel, except as provided by the Maryland Rules.

### **Temporary and Final Protective Orders**

If a Temporary Protective Order is granted by a judge, a final protective order hearing shall be set within 7 days. Continuances may be granted if agreed by the parties or required to obtain a DSS report. Petitioners for temporary protective orders must file their completed petition so as to have it ready to proceed in court no later than 4:00 p.m. In the event the petitioner cannot complete the paperwork and be ready for a hearing by 4:00 p.m., the petitioner will be referred to the District Court Commissioner's Office.

## **CIVIL ASSIGNMENT AND SCHEDULING PROCEDURES**

### **Specially Assigned Cases**

It is the responsibility of the County Administrative Judge to assign all civil matters requiring special assignment. The Court will closely manage litigation and trial for any case specially assigned. Any party may request the special assignment of a case or a judge may determine a case is appropriate for special assignment. A request for special assignment made by a party or recommended by a judge shall be forwarded to the County Administrative Judge.

Individual judges are responsible for the effective management of cases specially assigned to them; however, the scheduling of specially assigned cases must also be coordinated with the Assignment Office. Specially assigned cases should be managed consistent with the provisions of this Plan, including adherence to case time standards.

Special assignment does not guarantee priority status on the Court's dockets.

### **Postponements**

#### **1. Policy**

The policies outlined herein are developed to eliminate the need for requests to postpone court events and to adhere to case time standards.

Requests for postponements must be in writing and, regardless of the type of hearing, be made in the form of a motion, prior to the hearing sought to be postponed. The motion must include specific reasons for the request, the opposing party's position on the postponement (if possible), a proposed order, and proposed new hearing/trial dates that have been cleared through the Assignment Office. The Court will grant postponements only for good cause shown, and will evaluate, on a case-by-case basis, whether or not sufficient cause justifies a postponement. As a guide for practitioners, the Court does not generally consider the following reasons as sufficient cause to grant a postponement:

a. Counsel or the parties agree to a postponement, without providing a specific need for same;

b. The case has not previously been postponed;

- c. Counsel or the parties have not completed discovery;
- d. New counsel has entered an appearance or a party wants to retain new counsel;
- e. Unavailability of a witness who has not been subpoenaed; and
- f. A party or counsel is unprepared to try the case for reasons, including but not limited to, the party's failure to maintain necessary contact with counsel.

Generally, the Court will consider the following as good cause to grant a postponement:

- a. Sudden medical emergency or death of a party, counsel, or material witness who has been subpoenaed; and
- b. Facts or circumstances arising or becoming apparent too late in the proceedings to be fully corrected and which, in the view of the Court, would likely cause undue hardship or possibly miscarriage of justice if the trial were required to proceed as scheduled; such circumstances must not have been discoverable previously.

Should a conflict in assignment dates arise once counsel has agreed to scheduled hearing dates, counsel shall make every effort to obtain the presence of another attorney to act in the case before requesting a postponement, which may not be granted.

## **2. Procedures**

### **a. Authority to Grant Postponements**

The family magistrate or the judge assigned to a case shall consider requests to postpone a trial, consistent with the case time standards. The Assignment Office must clear dates for the rescheduling of all cases.

## **b. Specially Assigned Cases**

If a case receives special assignment, the specially assigned judge will make determinations regarding case management and scheduling, consistent with the case time standards. However, the County Administrative judge must be consulted by the specially assigned judge on postponements that place the matter beyond its target date. In addition, the Assignment Office must clear dates for the re-scheduling of all specially assigned cases.

## **INTERPRETERS**

### **1. Request for Interpreters**

The Maryland Judiciary provides court interpreters at no cost for hearings and proceedings conducted in court, as well as certain court-related services and events, for individuals who are parties or witnesses in civil, family, criminal, and juvenile proceedings.

Counsel or the parties should submit a Request for Spoken Language Interpreter (CC-DCA87) to the court administrator not less than 30 days before the proceeding for which the interpreter is requested. Uncommon languages and dialects may require additional time to schedule an interpreter, based on the availability of an interpreter for that language.

### **2. Cancellation of Interpreter**

If it becomes apparent that an interpreter will not be needed on the assigned trial or hearing date, counsel or the parties shall submit a written notice to the court administrator no later than 48 hours prior to the scheduled proceeding (not including legal holidays).

### **3. Hearings**

If the event that the case requiring an interpreter is scheduled on the same docket with other cases, the Court, counsel, and parties should be prepared to proceed with that case first, so as to allow the interpreter to organize his or her schedule, and to minimize the expense to the Court, since interpreters are paid by the hour.

## **ADA ACCOMMODATIONS**

### **1. Request for Accommodation for Person with Disability**

The Maryland Judiciary provides reasonable accommodations for persons with disabilities for hearings and proceedings conducted in court, as well as certain court-related services and events.

Counsel or the parties should submit a Request for Accommodation for Person with Disability (CC-DC-49) to the court administrator not less than 30 days before the proceeding for which the accommodation is requested. If requesting a sign language interpreter, counsel or the parties should identify the specific type of interpreter, i.e., *American Sign Language (ASL)*, *Certified Deaf Interpreter (CDI)*, or *Communication Access Real Time Translation (CART)*.

### **2. Cancellation of an Accommodation**

If it becomes apparent that a sign language interpreter will not be needed on the assigned trial or hearing date, counsel or the parties shall submit a written notice to the court administrator no later than 48 hours prior to the scheduled proceeding (not including legal holidays).

### **3. Hearings**

If the event that the case requiring an accommodation or sign language interpreter is scheduled on the same docket with other cases, the Court, counsel, and parties should be prepared to proceed with that case first, so as to allow the sign language interpreter or CART system stenographer to organize his or her schedule, and to minimize the expense to the Court, since interpreters and CART system stenographers are paid by the hour.

## **FORMS**

The following forms may be required to be attached to a complaint in family cases, or to complete a filing and service:

CC-DCM-004	<u>Civil Domestic Case Information Report</u>
CC-DR-055	<u>Affidavit of Service of (Private Process)</u>
CC-DR-056	<u>Affidavit of Service (Certified Mail)</u>
CC-DC-089	<u>Request for Waiver of Prepaid Costs</u>

The following form is used to request a change in a scheduled hearing or trial in the Circuit Court:

CC-DC-070      Motion for Postponement

Citation

<sup>1</sup>American Bar Association (ABA), Standards Relating  
to Trial Courts, 1992 Edition, Section 2.50 . . . . . 5