

CIRCUIT COURT FOR CALVERT COUNTY, MARYLAND

Differentiated Case Management Plan for Family Cases

INTRODUCTION

This Family Differentiated Case Management Plan (DCMP) 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 action in the Circuit Court. The Rule mandates that a case management plan shall include a system of differentiated case management in which actions are classified according to complexity and priority and are assigned to a track based on that classification. This Plan is a guide to case management envisioned by Md. Rule 16-302(b). The provisions of the Plan are not intended to be rigid; some deviation from them is to be expected from time to time. Additionally, the Plan does not purport to override the Maryland Rules or procedural requirements contained in the *Annotated Code of Maryland*.

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, not the lawyers or litigants, 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)

It is the purpose of this DCMP to provide an effective case management system which will assure:

1. Equal treatment of all litigants by the court;
2. Timely disposition consistent with the 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 divorces, be concluded within 12 months (365 days) of the filing date; and that 98% of limited divorce cases be concluded within 24 months (730 days) of the filing date. A concluded disposition is considered by judgment or dismissal. In order to achieve this goal, the Circuit Court is committed to resolving different categories of family cases, referred to as case subtypes, within a regular and predictable time frame warranted by the needs of those cases. For simpler cases, the warranted time frame may be shorter than 12 months.

SECTION I GENERAL PROVISIONS

1.1. Information Reports. Copies of the forms required by Md. Rule 16-302(b)(4) and adopted by the Court of Appeals shall be made available by the Clerk's Office to all parties, without charge. Failure to file an information report does not affect acceptance or processing of a complaint or answer. When filed, information reports shall be placed in the case file, and shall be used to assist in making the determinations required in other sections of this DCMP, and not for any other purpose.

1.2. Remote Participation. (a) Scheduling or Pretrial Conference by telephone. An attorney may elect to participate in a Scheduling or Pretrial Conference by telephone, if such participation is expressly authorized by the Court. Attorneys and their clients must be present for a Settlement Conference. Attorneys participating by telephone shall be considered, for all purposes, to be in the presence of the Court. An attorney who is not physically present or participating by telephone at the time stated in the Order for Scheduling Conference shall be considered absent and subject to all decisions made at the Scheduling Conference and/or appropriate sanctions for failure to appear.

(b) All other matters. Attorneys, parties and litigants may appear for trials and hearings through video or audio conferencing offered by CourtCall. Advance permission must be obtained from the court using the motion provided on the court's website. To expedite matters, the party requesting the remote hearing must notify all other attorneys or unrepresented parties and receive their consent. Approval depends on the nature of the matter to be heard and the reason for the request. If other attorneys or unrepresented parties do not consent, the motion will be considered on its merits. The party requesting the remote appearance shall be responsible for all costs incurred.

1.3. Postponements – Changes of Assignment.

(a) Policy. It is the policy of this Court to resolve family disputes without unnecessary delay or undue waste of the time and resources of the Court, the litigants, and other case participants. Although it may be necessary or appropriate to postpone a hearing or court event, such requests should be based upon a showing of good cause, and should be done well in advance of any scheduled court deadline or event. Requests for postponement are particularly disfavored on the day of a hearing or trial. The Court also views with disfavor any request for postponement or for modification of a Scheduling Order that delays the resolution of the matter beyond twelve months from the date of filing, which is the case time standard that applies to family cases other than complaints for limited divorce.

(b) Procedure for Making Changes. A date contained in a Scheduling Order, Settlement Conference Order or Pretrial Order may be changed by the Court, on its own initiative, or on request of a party submitted for court approval in the manner provided in section (c) of this paragraph.

(c) **Change of Trial, Hearing or Conference Dates.** A party who desires a change of the date and/or time of any trial, hearing or conference must file a motion, which clearly states the reason the postponement is being requested. If a conflict in court appearance schedules is the reason given for the request, the name and location of the other court and the case number presenting the conflict must be included in the motion. An existing notice of trial, Scheduling Order or Pretrial Order remains in full effect until a change has been approved in writing by the Court. If a change of date is approved, all instructions and other provisions of the original notice or order remain in effect unless changed by the Court.

(d) **Removal from Trial Calendar.** An action shall not be passed for settlement or otherwise removed from the trial calendar except by the filing of a stipulation of dismissal, an order in accordance with Md. Rule 2-506, or other documentation required by the Court.

1.4. Striking of attorney’s appearance. Pursuant to Md. Rule 2-132, unless a litigant 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. Non-payment of legal fees shall not constitute extenuating circumstances, unless specifically approved by the Court.

SECTION II

DOMESTIC RELATIONS PROCEDURES

2.1. Emergency Situations (domestic violence petitions / *ex parte* petitions / *ex parte* hearings).

(a) **Emergency Inquiry.** Notwithstanding any other provisions of this DCMP, if a complaint, answer or other paper filed by a party suggests that a serious crisis exists which may result in serious physical harm to a party or a minor child of the parties unless immediate action is taken, and the Court determines that the petitioner has notified the opposing party, the Court shall conduct an “on-the-record” inquiry as deemed necessary. The record of such inquiry may be limited to tape recording the proceedings. If the matter is heard and found to be an emergent situation, a temporary order shall issue. The parties may be referred to the Family Services Office for any intervention needed including parenting classes or mediation. The matter shall then be set for a final hearing on the merits.

(b) **Granting of *Ex Parte* Order – Scheduling Protective Order Hearing.** If the results of the Clerk’s Office search for related pending cases is negative, and the judge grants the petition, the *ex parte* order shall be issued in the courtroom, and shall include the date, time and location for the protective order hearing, which shall be conducted within seven days, provided the respondent is served. The file shall be presented to the judge on the date scheduled for the protective order hearing whether the respondent has or has not been served. The file shall

include information advising the judge of the status of service. If no return of service is in the file, Clerk's Office personnel shall contact the agency responsible for service, determine the status, and advise the judge, in writing, of the agency's response. If the respondent is not served, the petitioner can request an extension of the *ex parte* order for service on the respondent. In addition, if the respondent has not been served, the judge, in his/her own discretion, may extend the *ex parte* order without a request. The *ex parte* order cannot be extended beyond 30 from the original date of the order.

(c) **Denial of *ex parte* petition.** If the judge denies the petition, the case is concluded, and no further action shall be taken.

2.2. Requests for Emergency Relief and Requests for Expedited Relief (non-protective order cases)

(a) **Emergency Relief.** Requests for emergency relief or *ex parte* relief shall be verified and filed in writing giving the opposing party 24 hours' notice. No motions for emergency relief shall be granted unless a pleading for permanent relief has been filed at the same time or prior to the emergency motion.

(b) **Initial Review.** The request for relief shall be reviewed by the magistrate or a judge, if the magistrate is unavailable, for an initial determination of the existence of an emergency.

(c) **Hearing for Emergency Relief.** If the Court determines that an emergency exists, it shall be the practice to have the parties and counsel appear for a brief hearing on the issue of the emergency only. Typical emergencies would involve child abuse or neglect with a sufficient showing that there is an imminent risk of substantial and immediate physical harm or harassment to a child or party.

(d) **Expedited Relief.** A party or counsel may file a motion for expedited relief, if the facts of the case do not rise to the standard for emergency relief. These issues typically involve unreasonable deprivation of visitation for an extended period of time, financial hardship to one party, inability to enroll a child in school, and inability to provide medical care. In these cases, the Court may schedule a conference call, a Status/Scheduling Conference or a hearing depending on the circumstances, and may result in an order shortening the time to answer.

(e) **New Cases – Issuance of Summons.** In situations where the case is new and a request for emergency or expedited relief has been requested, the clerk shall issue a summons for the underlying request for permanent relief. Once the pleadings have been served, the case shall follow the normal procedures for a new filing.

2.3. Procedure When Domestic Action Case is Filed.

(a) **Case Number.** If the initial information report discloses a prior proceeding between the parties in this Court, the action shall be filed in that prior proceeding, unless the action is a new paternity proceeding. No new action shall be filed in a domestic violence proceeding.

(b) Contempt. If the action involves a request to find a person in contempt, Clerk's Office personnel shall forward the file to the court (magistrate or judge) for consideration in accordance with Md. Rule 15, Section 200.

(c) Other Actions. In any other action, the procedures set forth in paragraph 2.4 shall be followed when an answer is filed.

2.4. Procedure When Answer Filed.

(a) Uncontested Action. If an answer or amended answer filed by an unrepresented litigant or by an attorney indicates that the action is wholly uncontested, the action shall be set in for hearing for uncontested divorce, usually within 45 days of answer. Notice shall be sent to attorneys and unrepresented litigants; such hearing notice shall inform attorneys and the parties of the requirement to have a corroborating witness present at the hearing.

(b) Contested Action, Scheduling Conference.

(i) If an answer or amended answer indicates that issues are contested, and at least one of the parties is represented, the Court shall review the file and forward the file to the Assignment Office. The Assignment Office shall then set a Scheduling Conference on a date that is within 30 days of the filing of the answer. No scheduling conferences are scheduled if all parties are self-represented.

(ii) The goals of a Scheduling Conference include the following:

- (a) Provide an early opportunity for the parties to settle any of the issues in their case;
- (b) Establish track assignments;
- (c) Determine the contested issues in each case;
- (d) Determine the need for mediation, investigations, counseling or any other support related services; and
- (e) Screen high conflict family cases so that the parties and children can be identified for services as early as possible. This may result in High Conflict Parenting and Mediation or Evaluations in child access cases.

(c) Assignment to Track. On the basis of information obtained at the Scheduling Conference, the Court shall assign an action to one of the following tracks. Tracks define expected case processing events, the timing of events, assignment, and the expectations for case duration. The case flow time standard for Circuit Court family cases with the exception of limited divorces, is 12 months [365 days] for 98% of cases and 24 months (730 days) for 98% of limited divorce cases; but expected case duration is based on needed time to reach resolution, which may be less than the time standard.

2.5. Tracks.

(a) Track One -- Expedited Domestic Track. An action shall be assigned to an expedited track when it appears that the matter is uncontested.

(b) Track Two -- Standard Domestic *Pro Se* Track. All actions that are contested, where all of the parties are self-represented and the case is not assigned to the limited divorce domestic track shall be assigned to the standard domestic *pro se* track.

(c) Track Three -- Standard Domestic Track. All actions that are contested, where at least one of the parties is represented and the case is not assigned to the limited divorce domestic track shall be assigned to the standard domestic track.

(d) Track Four -- Limited Divorce Track. All cases in which a limited divorce is requested shall be assigned to this track.

Table 1.1 – Family Tracks Case Types and Outcomes

Track	Case Subtypes	Expected Case Duration and Notes
Track 1 Expedited	All uncontested cases.	75 days
Track 2 Standard Pro Se	<ol style="list-style-type: none"> 1. Contested Divorce, with or without custody and child support 2. Contested Child Support 3. Contested Child Access 4. Contested Adoption 5. Guardianship Paternity 	
Track 3 Standard	<ol style="list-style-type: none"> 1. Contested Divorce, with or without custody and child support 2. Contested Child Support 3. Contested Child Access 4. Contested Adoption 5. Guardianship Paternity 	545 days
Track 4 Limited Divorce	Limited Divorce	700 days

Table 1.2 – Family DCM Track Guidelines

Track	Family Case Types Tracks	Filing	Answer Filed	Scheduling Conference	Mediation	Settlement Conference	Discovery Motions Filed	Pretrial Conference	Merits Hearing
One	Expedited	0 days	30 days	n/a	n/a	n/a	n/a	n/a	75 days
Two	Standard Pro Se	0 days	30 days	n/a	60 days	n/a	n/a	180 days	210 days
Three	Standard	0 days	30 days	60 days	120 days	180 days	210 days	240 days	270 days
Four	Limited Divorce	0 days	30 days	60 days	120 days	210 days	575 days	690 days	725 days

(c) Contested Custody/Visitation - ADR Programs.

(i) If all parties are self-represented, the Family Services Office shall arrange for mediation. No Scheduling Conferences or Settlement Conferences are typically conducted.

(ii) When any party is represented, a Scheduling Conference will be held. At the Scheduling Conference, the Court shall determine which services are necessary. The Court may direct the Family Services Office to arrange for one, or a combination, of the following services: (i) custody evaluation by the court-appointed evaluator; (ii) home study by the Department of Social Services; (iii) substance abuse evaluation by designated agency; (iv) psychological evaluation by the court-appointed psychologist, or (v) any other program the court deems necessary.

(iii) Regardless of the results of the mediation process, the mediator shall file a written report with the Family Services Office when the process is completed but no later than 30 days from the final mediation session.

(iv) If the parties reach agreement, the mediator shall submit that agreement to the Court through the Family Services Office. If the written agreement is received and found acceptable by the Court prior to the Settlement Conference, and all other issues are resolved, the Court may proceed with an uncontested divorce on the date of the Settlement Conference. If there are issues, other than custody and visitation, the case shall proceed to a Settlement Conference, if appropriate..

(v) If the parties fail to reach an agreement through the initial ADR programs, Track 2 cases shall proceed directly to trial. For Track 3 and 4 cases, a Pretrial Settlement Conference will be scheduled before the magistrate pursuant to paragraph 2.7 (b)

2.6 Assignment of Domestic Trial Date. At (or promptly after) a Scheduling Conference, unless a trial date has been previously assigned or the Court otherwise directs, the action shall be set for trial and a notice of trial shall be issued.

2.7 (a) Settlement Conference. A Settlement Conference is set on all Track 3 and Track 4 cases. The date of the Settlement Conference will be set at the Scheduling Conference or when the initial Scheduling Order is issued. All Settlement Conferences are held before the magistrate. The magistrate will place on the record any settlement agreement reached between the parties. Unless requested in writing and approved in advance of the Settlement Conference, parties and counsel must appear in person. If parties or counsel anticipate that divorce testimony will be placed on the record, a corroborating witness should also be present.

(b) Pretrial Conference. In accordance with Md. Rule 2-504.2, a Pretrial Conference shall be scheduled for all Track 2, 3 and 4 cases that are not settled following a Settlement Conference. The Conference shall be held approximately 30-60 days prior to trial to address unresolved issues. A written statement addressing the matters listed in Md. Rule 2-504.2 (b) must be filed by the parties not later than five days before the Pretrial Conference. The Conference may include discussion of subjects referred to in Md. Rules 2-504 through 2-504.2, and any other matter pertinent to the management of the case. At the conclusion of the Conference (or shortly thereafter), a Pretrial Order amending or supplementing any prior Scheduling Order or notice of trial may be issued in accordance with Md. Rule 2-504.2(c), setting forth the matters decided which control the subsequent course of the action, subject to modification by the Court.

2.8. Financial Information. All parties are required to comply strictly with Md. Rule 9-202 (e) (Financial statement – Spousal support) and Md. Rule 9-202 (f) (Financial statement - Child support) and Md. Rule 9-207 (Joint Statement of Marital and Non-Marital Property). Further attention is called to (i) the sanctions permitted by these rules, and (ii) the status of a financial statement attached to a pleading or amended pleading in accordance with Md. Rule 9-202 (e) and Md. Rule 9-202 (f) as “a section of the formal pleadings”, as a result of which information materially differing from the most recently filed statement may not be permitted at trial.

2.9. Submission of Judgments for Divorce. A party seeking to file a final judgment in a divorce action must: (i) provide a proposed form of judgment, (ii) provide a completed report in the form required by Section 2-503 of the *Family Law Article* of the *Maryland Annotated Code*, and (iii) pay all open costs. A disposition date shall be scheduled for the presentation of a judgment of absolute divorce or any other order to be prepared by counsel and not presented at the time of the hearing. If the order or judgment has not been filed prior to the disposition date, the presence of counsel is required on the disposition date, and the parties may be required to appear if the Court deems it appropriate.

2.10 Dismissal of Limited Divorce Action. If a limited divorce case settles and the parties do not wish to obtain a judgment for limited divorce, the parties may file a line of dismissal with the Clerk of the Court along with a proposed order, or the Court, at its discretion, may close the case and require the parties to re-open the case when they are ready to proceed with an absolute divorce.

Appendix A

Case Stages

Filing a Case

The following steps are required to file a family case:

- (a) **File a complaint** with the Court (Md. Rule 2-111) at the Circuit Court Clerk's office. Most family cases are required to attach a completed [Domestic Case Information Report](#) (CC-DCM-001), with the complaint. Family case subtypes exempt from filing the Domestic Case Information Report include the following:
- Contempt for failure to pay child support, when filed by a government agency
 - Domestic violence relief under Code, Family Law Article, §§ 4-501 through 4-516, including Rule 3-326(c) transfer
 - Guardianship, other than action to terminate parental rights (Rules 10-201 through 10-305)
 - Paternity, when filed by government agency (Code, Family Law Article, §§ 5-1001 through 5-1048)
 - Post-conviction (Rules 4-401 through 4-408)
- (b) **Pay filing fee.** Refer to the [Summary of Charges, Costs, and Fees of the Clerks of the Circuit Court](#) for fees. The filing fee for divorce cases is \$165.00. (See *Divorce, Complaint for Limited or Absolute*.) In those counties in which MDEC has been implemented, cases may be filed (mandatory for attorneys) and fees paid electronically. Filing fees may be waived by the Court, based on the following conditions:
- ✓ Filing by the plaintiff of the [Request for Waiver of Prepaid Costs](#) (CC-DC-089); and/or
 - ✓ Representation by a civil legal aid lawyer; and/or
 - ✓ Other determination by the court.

If the Court does not grant the request to waive prepaid costs, the plaintiff has 10 days to pay the filing and other required fees (prepaid costs).

- (c) **Notify the other party (Defendant).** The plaintiff is required to attempt to notify the defendant that a complaint (lawsuit) has been filed against the defendant. The clerk will issue a summons to officially notify the defendant that a suit has been filed (Md. Rule 2-112). The summons has to be served on the defendant within 60 days. After the time limit has expired, the summons is no longer valid, unless renewed by motion of the plaintiff. The following documents must be delivered to the defendant: original complaint and summons. There are four legal ways to deliver these documents to the defendant: 1) Certified Mail, 2) Private Process; 3) Constable; and 4) Sheriff.

- (d) **Proof of Service.** The Court requires that the plaintiff fill out an (Private Process) (CC-DR-55) or an Affidavit of Service (Certified Mail) (CC-DR-56) form to prove that the other side has been notified, or served. If the Court does not receive proof of service within the time allotted for the defendant to file an Answer, the plaintiff may not be able to present their case on the trial date.
- (e) **Lack of Jurisdiction.** Between the filing of the complaint and service, the Court may dismiss cases for lack of jurisdiction, and following service for lack of prosecution, or these cases are withdrawn. If the defendant has not been served after [120 days], the clerk's office sends notices to the parties that they have [30 days] to file a motion to vacate or defer the order of dismissal, or the case will be dismissed without prejudice. After [30 days], the Clerk's office reviews the case, and it is presented to a judge who signs an order dismissing the case. A motion docket entry is made that the case is dismissed for lack of jurisdiction.

Answer. The defendant must file an affirmative Answer, typically within 30 days after he/she has received a summons, for most Circuit Court civil case subtypes (Md. Rule 2-321). See exceptions in (a) above. These cases are considered by the Court to be at issue, and the case shall proceed (Md. Rule 2-323). 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, he/she is required to file with the Answer a defendant's Family Case Information report.

Lack of Prosecution. Following service, the Court actively dismisses cases for lack of prosecution after one year under Md. Rule 2-507. The majority of dismissals occur after the answers have been filed. See *Answer* above. Following service, if an Answer has not been filed or, following answer, no other action has been taken on the case after [one year], the Clerk's Office sends notices to the parties that they have [30 days] to file a motion to vacate or defer the order of dismissal, or the case will be dismissed without prejudice. After the 30-day expiration, the Clerk's Office reviews and dismisses the case. A motion docket entry is made that the case is dismissed without prejudice for lack of prosecution.

Appendix B

Family Services and Programs

The following are some of the services that may be ordered as part of an ongoing contested family case. Ideally, the need for any service will be determined at the time of the Scheduling Conference; however, a judge may order, or a magistrate may recommend any of these services at any time in the case process. The services and programs listed below are described in more detail after the Tracks 2 and 3 case flow narrative:

Co-parenting Seminar
Parenting Time Mediation
In-home Services
KIDS' Connection
Home Studies
Supervised Visitation
Evaluations
Children's Attorneys
Parenting Assessment
Parent Education
Parent Communication
Parent Coordination
Substance Abuse Screening/Evaluation/Treatment
Domestic Violence Programs

Appendix C

Post-Trial Activities.

Post-Judgment

The parties have 10 days to file a motion to alter or amend a judgment (Md. Rule 2-534); and 30 days to file an appeal. On appeal, a Circuit Court case will be reviewed in the Court of Special Appeals.

Enforcement

After the Court issues a judgment and it is entered into the record by the Clerk's Office, both parties will receive a copy of the judgment by mail. The Court will not collect the money owed to the prevailing party. To begin an enforcement action, the prevailing party will have to complete and file more forms with the Court, pay the required filing fees and appear in court for additional hearings. The prevailing party usually must wait 10 days before he/she can take further legal action to enforce the judgment. Once the waiting period passes, there are three different ways a creditor can collect on the judgment:

1. Garnishing the other person's wages;
2. Garnishing the other person's bank account; or
3. Seizing the other person's personal property or real estate.

The prevailing party must file documents with the Court and provide the other party with copies of all motions or correspondence filed with the Court in order to garnish or seize money or property. If the other person does not have a job, a bank account, real estate or other significant property, it may be difficult to collect on the judgment.