

# **Circuit Court for Baltimore County Family Law Differentiated Case Management Plan**

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**Pursuant to Md. Rule 16-202b.**

**(January 3, 2006)**

This Case Management Plan was submitted and approved by the Chief Judge of the Court of Appeals in October of 1994 when Differentiated Case Management was adopted in the Circuit Courts. Since that time a number of changes have occurred which have necessitated a modification to this plan. Foremost among these have been the implementation of the Family Division in the Circuit Court for Baltimore County in October of 1998. This current plan incorporates that change along with a number of major initiatives initiated in January, 2006, such as screening intensive services cases and scheduling trial dates at the time of a pre-trial settlement conference. Other adjustments have also been referenced since DCM was implemented more than eleven years ago.

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## **I. Family Law Cases**

The policies and procedures described in this plan apply to the following types of cases:

- alimony
- custody & visitation
- use and possession of a family home
- absolute & limited divorce
- paternity
- child support (excluding cases filed by the Baltimore County Office of Child Support)
- post judgment modification of custody, visitation, use and possession of a family home, child support or alimony
- contempt of an order for custody, visitation, use and possession of a family home, child support or alimony
- adoption
- guardianship

## **II. Civil (Domestic) Case Information Report**

Pursuant to Md. Rule 2-111, a Civil (Domestic) Case Information Report must be filed with a complaint/petition and a copy must be served on the defendant/respondent. This form, which must be filed in certain domestic cases, is used to determine the issues in the case and whether the matter is contested or uncontested. (Note: As to the cases that are exempt from filing an information report, see the revised administrative order of the Chief Judge of the Court of Appeals dated December 10, 1996, effective January 1, 1997 in the Committee Note to Md. Rule 2-111.)

The court also recommends that an information report be filed with the response to a complaint or petition. Failure to file an information report may result in the court assigning the case to a track that may be contrary to the intent of a party or may result in the scheduling of a hearing or scheduling conference which may not be necessary.

## **III. Uncontested Divorce Hearings**

Since October, 1998, all uncontested divorce proceedings are scheduled in the courthouse before a Family Division Master or a Family Division Judge. At the same time, masters' fees are no longer required to be paid by the parties for these hearings. By implementing these initiatives, significant steps were undertaken to make the Family Division more accessible to all litigants and at the same time, make more services available on a cost free basis. Also, effective July 5, 2000, it is no longer necessary to call the Civil Assignment Office to obtain a hearing date since the scheduling of these hearings are done automatically through the computer. This scheduling process allows an uncontested divorce hearing to be scheduled approximately 30 days after an answer has been filed or approximately 35 days after a default order has been issued. No Special Request for Hearing is necessary to be filed with the court nor will litigants or attorneys need to make a telephone call to obtain a hearing date from the Civil Assignment Office. This program also is consistent with Md. Rule 16-202 (4.) which requires the " prompt disposition of uncontested matters" and at the same time assists pro se litigants and attorneys unfamiliar with the processes in Baltimore County in gaining quicker access to routine court proceedings. It is also important to note that if a party or attorney has a conflict on the date of the scheduled hearing, they may call the Civil Assignment Office to reset the date. If the matter has become contested, the DCM Office should be contacted so that the hearing date is vacated and a Settlement/Scheduling Conference can then be scheduled.

#### **IV. Emergency Hearings**

If there is some immediate substantial injury that will result to the party or the party's child or children before a regularly scheduled hearing can be held, an emergency hearing may be considered in a domestic case. In order to request an emergency hearing, a motion must be filed (in motion format) and must be titled, MOTION FOR AN EMERGENCY HEARING. The motion should contain all of the relevant facts including the reason why the matter needs immediate court attention. It is helpful to include with the motion a statement regarding the time estimates to hear the motion and whether medical experts may or may not be called. Motions for emergency hearings should be sent to the opposing counsel/party.

An affidavit and certificate of service must accompany the motion for an emergency hearing detailing the facts that give rise to the emergency. In certain instances, where the party does not have the personal knowledge to support all of the facts in the motion, additional affidavits should be used. All affidavits are to be attached to motions for mailing and/or service and must be signed by the party not by counsel, unless the attorney has personal knowledge. The request for an emergency hearing will be reviewed by the Administrative Judge and if approved, it will be scheduled before a Family Division Judge within 15 days by the Central Assignment Office.

## **V. Temporary Ex Parte and Temporary Restraining Orders**

Temporary ex parte orders for domestic violence cases or temporary restraining orders for domestic matters not pertaining to domestic violence may be presented to the Chamber's Judge for a ruling. If the ex parte protective order is approved, domestic violence protective order hearings are set within seven days before a Family Division Judge. (See generally, Family Law Ann. Code of Md., 4-504 through 4-506.) If a temporary restraining order is granted, the party affected by the order may apply for modification or dissolution of the order on two days notice to the party who obtained the temporary restraining order. If notice is given, a hearing before a Family Division Judge will be scheduled at the earliest possible time. (See generally, Md. Rule 15-501 through Md. Rule 15-505.)

## **VI. Settlement/Scheduling Conferences**

Once the case is at issue ( i.e., when a counter complaint or the answer is filed to a complaint or petition), the DCM Office reviews the case and schedules the contested matter within 30 days for a Settlement/ Scheduling Conference pursuant to Md. Rule 2-504. Conferences are not held where the parties are in default of answering the complaint (or petition) or where a contempt petition and a show cause order have been filed. The Settlement/ Scheduling Conference has the following multiple purposes:

- (1) To provide an early opportunity for the parties to settle any of the issues in their case;
- (2) To establish track assignments;
- (3) To determine the contested issues in each case;
- (4) To determine the need for mediation, investigations, counseling or any other support related services; and
- (5.) To screen High Conflict domestic 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.

At the conference, all parties and attorneys first meet with the Family Services Screener to assess those High Conflict domestic cases in need of services. Afterwards they may meet with a Family Division Master to attempt to settle all or any of the contested issues in the case. It will also be determined whether abuse or a high-level of conflict exists in the case and arrive at a time estimate for any necessary hearings. If the parties come to an agreement at the conference, the Master will prepare a Consent Agreement that will be signed by all parties and attorneys and forwarded to a Family Division Judge for approval. A Master may also prepare a Consent Agreement between the parties for any evaluations, investigations, supervised visitation, appointment of attorney for the child or any

other family support services. (See some of these services listed below.) This agreement will also be sent to a Family Division Judge for approval.

If the entire case is not settled with the Family Division Master, agreed dates are obtained from the attorneys and parties for the scheduling of parenting classes and mediation (including High conflict), pendente lite hearings, pre-trial settlement conferences and a final merits hearing. A computerized Scheduling Order will then be generated and distributed at the time of the conference. Hearing dates established at the time of the conference shall not be postponed except for extraordinary reasons.

Telephone scheduling conferences are also available if there are no contested children's issues in the case. Attorneys who wish to conduct these conferences must first contact the DCM Office and arrange a date and time that is available by the court. The telephone conference must be conducted 30 days from the assignment date notice and the DCM staff will initiate the conference call on the agreed date and time.

## **VII. Family Division Services & Programs**

(A.) Co-Parenting Classes- This course is available in the courthouse twice a month on a cost free basis to all parties. It is recommended that this program be taken prior to any scheduled mediation. Designed to educate parents about the impact that divorce or separation may have upon children, these classes also explain better ways to understand relationships and assist parents in finding more improved methods of communication.

(B.) Intensive Service Parenting Workshop - After careful screening, cases may be referred to High Conflict Parenting Classes. High Conflict Parenting Classes will concentrate on those areas that make effective parenting difficult such as domestic violence, substance abuse and mental health issues. Parallel parenting skills will be stressed in order to reduce the conflict levels.

(C.) Supervised Visitation and Monitored Exchange- Supervised visitation and a monitored exchange of children for visitation is provided through the Family Division at no expense to the parties. This is provided at a neutral site locations under certain restrictions ordered by a Family Division Judge. This program is coordinated through the Family Support Services Office in the Family Division.

(D.) Mediation-Pursuant to Md. Rule 9-205, a case may be referred to mediation on custody and visitation issues. The mediation session may take place at the time of the Settlement/Scheduling Conference or on an agreed future date scheduled at the time of the conference. All mediation sessions are held in the County Courts Building with fully trained staff mediators from the Office of Family Mediation. No costs are associated with these confidential mediation sessions which are normally schedule within 45 to 60 days after the initial Settlement/Scheduling Conference.

(E.) Intensive Services Mediation- Intensive Services Mediation will be conducted after parenting classes are conducted. This will mostly be a facilitative, problem-solving process that allows the parties to be interviewed separately (i.e. caucus method). This process also helps in identifying the underlying problems of the dispute and a methodology for improving communications between the parties.

(F.) Family Support Services-Special services are coordinated through the Family Support Services Office including mental health counseling, substance abuse counseling and treatment and anger management counseling.

(G.) Custody Investigations-Custody investigations (home studies ) are conducted by the staff of the Family Support Services Office, usually within 60 to 90 days after being requested by a Family Division Judge or Master. Psycho-social assessments and emergency investigations are performed by social workers in the Family Support Services Office.

(H.) Psychiatric Evaluations-These are conducted by the Office of the Court Psychiatrist when ordered by a Family Division Judge. Two forensic psychiatrists, one forensic psychologist and a clinician are available to perform these family mental health assessments.

(I.) Intensive Services Investigations- These are investigations that are conducted to determine whether the allegations of unfitness by one or both of the parties are substantiated in high conflict domestic cases. Referrals are made by the Family Services Screener and may result in a Intensive Services Mediation or a Child Access Evaluation.

(J.) Intensive Services Child Access Evaluations-These reports will include information such as: the quality of relationship between parent and child, the ability of each parent to parent a child, the relationship between the parents and their ability to co-parent, the mental health of the parties, the mental health of the child and the patterns of domestic abuse. At the conclusion of the evaluation, a conference is held for purposes of presenting the report and reaching an agreement with the parties. If need be, mediation can be utilized to further encourage this agreement.

## **VIII. Assignment Guidelines**

### **(A.) Tracks**

The DCM Office will assign all contested domestic cases under the DCM plan to one of four following tracks at the time of the Settlement/Scheduling Conference:

#### **(1.) Expedited Domestic Track**



Merits hearings on this track are set before a Family Division Judge within 90 days after the Settlement/Scheduling Conference. This normally occurs where the contested complaint for absolute divorce does not contain: (a.) A request for pendent lite relief involving custody, visitation, support or use and possession of property; and (b.) Contested marital property issues are rather simple. It can also occur when there are pendente lite issues and both parties agree to waive their right to a pendente lite hearing and have their case heard in an expedited manner.

(2.) Standard Domestic Track (Non-High Conflict )

The date for the Settlement /Scheduling Conference for a Standard Track Case is no later than 120 days from the date of the answer. Effective January, 2006 final merits hearing will also be scheduled approximately 60 days after the pre-trial settlement conference. The deadline for motions (excluding Motions in Limine) in the Standard Track is five days prior to the pre-trial settlement conference date. All discovery in the Standard Track must be completed ten days prior to the pre-trial settlement conference date. The deadline for the joinder of additional parties and the defendant's expert reports or disclosures under Md. Rule 2-402(e)(1) will be established 60 days prior to the pre-trial settlement conference date. Plaintiff's expert reports or disclosures under Md. Rule 2-402(e)(1) will be due within 90 days prior to the pre-trial settlement conference date.

(3.) Intensive Services Track (High Conflict)

The date for the Settlement/Scheduling Conference for an Intensive Services Case is no later than 180 days from the date of the answer. Effective January, 2006 final merits hearing will also be scheduled approximately 60 days after the pre-trial settlement conference. The deadline for motions (excluding Motions in Limine) in the Standard Track is five days prior to the pre-trial settlement conference date. All discovery in the Standard Track must be completed ten days prior to the pre-trial settlement conference date. The deadline for the joinder of additional parties and the defendant's expert reports or disclosures under Md. Rule 2-402(e)(1) will be established 60 days prior to the pre-trial settlement conference date. Plaintiff's expert reports or disclosures under Md. Rule 2-402(e)(1) will be due within 90 days prior to the pre-trial settlement conference date. All cases in the Intensive Services track will be specially assigned to a judge.

(4.) Complex Domestic Track/Specially Assigned Cases

At the court's discretion, a case may be assigned to the Complex Domestic Track if the issues presented are so complex that special attention or additional time is clearly necessary. Counsel should request a Complex Domestic Track by submitting a written request to the DCM Office,

explaining why the case complex. A copy of this request must be forwarded to opposing counsel. Upon receiving the request, the case file will be reviewed and a determination whether the case meets the complex case criteria. If approved, the matter will be assigned on a rotational basis to the next Family Division Judge scheduled to receive a complex case. He or she will then conduct a scheduling conference to set all of the necessary hearing dates and deadlines, which will later appear in a scheduling order sent out by the court. The exception to this provision is the date of the merits hearing or trial date which must be scheduled 300 days from the date of scheduling conference. At certain times, it may be appropriate that a case be specially assigned to a Family Division Judge. This may happen at the direction of the Family Division Judge or may be made by the attorneys in the case. (See also Section XI. Judicial Assignments.)

#### (B.) Master's/Judge's Hearings

Cases that have issues that may be referred to a Family Division Master are detailed in Md. Rule 9-207 (i.e., custody, visitation, child support, alimony, use and possession of the family home, etc.). Actions for enforcement of a separation agreement, whether these issues are in an original complaint or a modification petition, will be scheduled before a Family Division Judge as well as all cases where there is an allegation of abuse. Generally, the following guidelines are used in scheduling a matter before a Family Division Judge or Master:

(1.) Custody/Visitation (Mediation -- 30 Days After Conference; Master's Hearing –Approximately 60 Days After Conference)

Other than the exception of custody cases involving Intensive Services (Section VII. (B.) (3.), *infra*), all contested domestic cases involving custody/visitation, including modifications, will be referred to mediation and scheduled for a Family Division Master's Hearing approximately 60 days from the Settlement/Scheduling Conference. If mediation is appropriate, the case will be referred to the Office of Family Mediation of the Circuit Court for Baltimore County. The initial mediation session will be set approximately 60 days after the settlement/scheduling conference. This will normally take place after the referral of the parties to a court approved parenting seminar. If mediation is successful and the parties reach an agreement on some or all of the issues, then a draft agreement is prepared by the mediator and sent to the parties and attorneys consistent with Md. Rule 9-205. Thereafter, the agreement and/or any modification is forwarded to the court so that it can be entered as an order.

(2.) Non-Custody/Visitation (Master's Hearing -- 30-45 Days After Conference)

All initial pleadings seeking either temporary relief or modification of a previous order with respect to child support, alimony and/or the use and possession of the family home or property will be scheduled before a Family Division Master 30 to 45 days after the Settlement/Scheduling Conference. Because there are no issues related to custody or visitation, a mediation conference is not required.

(3.) Intensive Services Domestic Cases- (Intensive Services Mediations-90 days after Conference & Intensive Services Evaluations –150 Days After Conference)

At the time of the Settlement /Scheduling conference, all contested child access cases are screened to determine if it is a intensive services case. At this point in time, a further investigation may be conducted or the parties can agree to either Intensive Services Mediation or to a Child Access Evaluation (depending on the level of conflict). Both the mediation sessions and the evaluation conferences occur approximately 90 to 150 days after the initial screening. All Intensive Services Parenting cases will be referred to Intensive Services Parenting Workshop as well as regular Co-Parenting Classes.

(4.) Enforcement of a Separation Agreement (Judicial Hearing -- 45-60 Days After Conference)

All petitions to enforce a separation agreement will be scheduled before a Family Division Judge 45-60 days from the Scheduling/Settlement Conference.

## **IX. Contempt Petitions**

Beginning in Calendar Year, 2004, pursuant to Md. Rule 15-206(c)(2), the Court now refers all Petitions for Contempt of Visitation or Financial issues to a Pre-Hearing Contempt Conference. These conferences, which are held 25 to 30 days after the filing of the contempt proceeding, are designed to facilitate a settlement before a staff mediator or volunteer facilitator. If the petition and show cause order is not served, the Pre-Hearing Conference is not held. If all issues are not settled or if the mediator rescinds the mediation, the Civil Assignment Office will schedule the case for a contempt hearing before a Family Division Master approximately 20 to 30 days after the conference. With respect to all other contempt cases not scheduled for a Pre-Hearing Conference, Civil Assignment staff will assign these a hearing date approximately 30 days (but no earlier than 20 days) from the date the petition is filed. This hearing date is then entered on the show cause order. The petition and show cause order will then be presented to the Chamber's Judge for his/her signature. The show cause order, together with a

copy of any petition and other document filed in support of the allegations of contempt, shall be served on the party pursuant to Rule 15-206(d)..

When a hearing is held on a civil contempt issue and the Family Division Master concludes that there are reasonable grounds to believe that the party is in contempt and that incarceration may be an appropriate sanction (pursuant to Md. Rule 9-207 d.), the Family Division Judge does not enter an order or judgement in the case. Instead, a summons is issued at the time of the Master's hearing and a subsequent hearing is held before a Family Division Judge approximately 30 days (but not earlier than 20 days) from that date. At the time of the Master's hearing, the defendant is informed of the notice set forth in Rule 15-206 (c)(2) that he or she may hire private counsel or must contact the Public Defender's Office at least 10 business days prior to the date of the new hearing before a Family Division Judge. All issues before the Family Division Judge are held de novo since no exceptions are actually filed in the case. (Note: See Md. Rule 9-207, effective October 1, 2000.)

## **X. Exceptions Hearings**

In accordance with Md. Rule 9-207(f), a party may file exceptions to a Family Division Master's decision with the Clerk within ten days after the filing of the Master's written report. Counter exceptions must be filed within ten days of service of the exceptions. If exceptions are not filed within ten days, the pendente lite order is sent to the Chamber's Judge for signature.

If exceptions are filed within the required time limit and a hearing is requested with the exceptions or by an opposing party within ten days after service of the exceptions, the matter will be scheduled for a hearing within 60 days after filing the exceptions, unless the parties otherwise agree in writing (Md. Rule 9-207 (i) (2)). All notices setting the date for hearings on the exceptions will be forwarded separately by the Civil Assignment Office and will not be included in the Scheduling Order. However, all dates and time requirements as prescribed in the Scheduling Order will remain in effect. If an appropriate request for hearing the exceptions is not filed, the exceptions will be referred to the Chamber's Judge within 60 days after the filing of the exceptions.

If, at the time of the hearing before the Family Division Master, the Master determines that extraordinary circumstances exist and the Master recommends that an order concerning pendente lite relief be entered immediately, the court will afford the parties oral argument before an immediate order may be entered (Md. Rule 9-207 (h) (2)). The parties/counsel shall schedule the oral argument through the Central Assignment Office. If the question of extraordinary circumstances arises subsequent to the master's hearing and exceptions have been filed, the parties/counsel may request by motion an emergency hearing on the exceptions with the Administrative Judge. (See generally, Section IV. Emergency Hearings and Md. Rule 9-207, effective October 1, 2000.)

## **XI. Pre-Trial Settlement Conferences**

Approximately 120 to 180 days after the Settlement /Scheduling conference, a Pre-Trial Settlement conference is held. This is before a retired judge, who acting in a recall capacity, can place the agreement on the record if a settlement is reached between the parties. At the conference, emphasis will be placed on resolving marital property issues, but the judge may also discuss resolving any custody, visitation, alimony and/or child support issues. If at the time of the Pre-Trial Settlement Conference, an agreement is not reached, the date for the Final Merits Hearing will be scheduled. This will normally be between 60 and 90 days from the date of the Pre-Trial Hearing conference.

## **XII. Judicial Assignments**

Pursuant to Md. Rule 16-204(a)(4), the County Administrative Judge has designated judges to specifically sit in the Family Division of the Circuit Court. These judges will sit in the Family Division for approximately over a 12-month period.

All Intensive Services Domestic cases are specially assigned to a Family Division Judge. Also, attorneys or parties who wish to have a case remain with a Family Division Judge may make a request for special assignment at the time of the Settlement/ Scheduling conference or by submitting a written request to the DCM Coordinator. If the requested judge held a previous, substantive hearing (i.e., pendente lite hearing, contempt hearing, emergency hearing), then the court will make every effort to have the case referred to that judge for any future hearing(s). Also, to assure uniform treatment of cases, a case may be referred to a judge, even if that judge is no longer assigned to the Family Division.

## **XIII. Completion of the Daily Dockets & Stand-By Policy**

In order that attorneys and parties are aware of how cases are prioritized in terms of assigning judges to hear civil domestic and non-domestic cases, the following policies and procedures have been adopted.

### **(A.) Completion of the Daily Docket**

The Central Assignment Office completes the daily judicial assignments based upon the following criteria:

- (1.) Carryovers from the previous day;
- (2.) Specially assigned cases;
- (3.) "Right-of-way" cases (i.e., those cases previously postponed by the court because of the unavailability of a judge or jury or those cases that have been approved in writing as right-of-way because of an out-of-state witness or party);

- (4.) Stand by cases from the previous day; and
- (5.) Cases regularly scheduled for a trial or hearing. Priority is not given as to any type of case. Assignment of cases will be given to the oldest case first, however, the estimated length of trial and the availability of judges are also factors in assigning cases on a daily basis.

**(B.) Stand-By Policy**

On days when there are more cases than judges available to hear them, the Central Assignment Office will compose a list of cases to be placed on "stand by" (i.e., a wait list of cases in anticipation that a judge may become available). In order to establish how long a case will remain on the stand-by list, the following policy has been adopted for jury and non-jury cases:

- (1.) Jury cases will remain on the stand by list for two days (the day that it is scheduled for trial and the next day) up to and including Thursday of that week, unless all parties agree to remain on stand by longer than two days. (Note: Under Family Law, there are only a few types of cases that are heard by a jury such as paternity matters.)
- (2.) Non-jury cases will remain on the stand by list up to and including Friday of that week, unless all parties agree to remain on stand by beyond Friday.

If cases placed on stand by are not reached by the court or if it appears in advance of the trial date that the case will not be reached consistent with this policy, the Central Assignment Office, with the approval of the Administrative Judge, will postpone these cases administratively. Cases postponed by the court because a judge is not available will be rescheduled, by agreement of all counsel, as soon as possible by the Civil Assignment Office. These cases will be given a right-of-way status when rescheduled.

**XIV. Continuance Policy**

Because most Family Division cases are scheduled in the Settlement/Scheduling Conference and by agreement of the parties and/or attorneys, continuances in Family Division cases will only be granted for good cause shown. All requests for continuance shall be made in writing. Requests to continue hearings scheduled before a Master will be referred to the Lead Master for a ruling. Attorneys may make a request in writing to have the Administrative Judge reconsider the Lead Master's decision. The Administrative Judge's decision shall be final. All other continuances for judicial hearings are decided by the Administrative Judge.

If a continuance is granted in a domestic case, a telephone scheduling conference may be scheduled for the purposes of obtaining an agreed date. All deadline dates on the original Scheduling Order will remain in effect, except if the trial is scheduled 45 days or more from the original trial date, then the discovery deadline date will be 30 days prior to the new trial date.

#### **XV. Settlement of the Case (Dismissals/Consent Orders)**

If after an initial judicial hearing or after the pendente lite hearing is held, the case is settled and a consent order is filed with the court, an uncontested divorce hearing will be set before the master. Counsel shall notify the Civil Assignment Office of all settlements that occur before or after the pendente lite stage. The consent order must be signed by all attorneys or all parties for the pendente lite hearing to be removed from the daily docket.

Counsel shall also notify the Civil Assignment Office of all settlements of final merits hearings that occur at least ten days prior to the settlement conference date. If settlement occurs between the settlement conference and the date of trial, the Central Assignment Office should be notified.