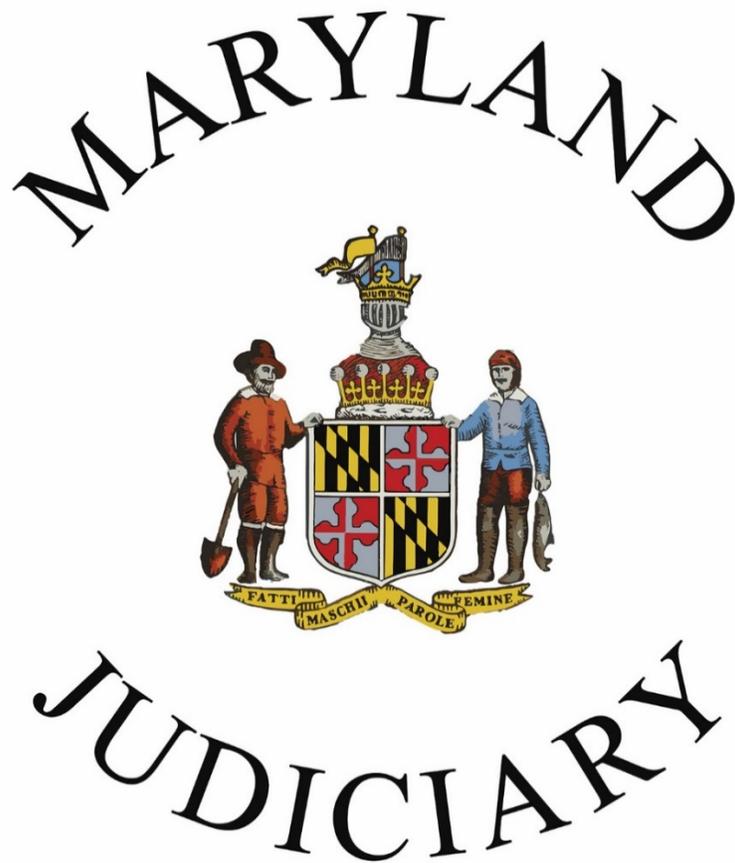


# The Circuit Court for Charles County, Maryland



## Civil Differentiated Case Management (DCM) Plan



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## Introduction

This Civil DCM Plan is established in accordance with Md. Rule 16-302(b)(1)(A) that 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. Differentiated Case Management (DCM) is a system for managing cases based on their relative complexity and need for judicial involvement.

## 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, 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 2.50, 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 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, with the exception of foreclosure cases, all civil cases, jury and non-jury, be concluded within 18 months (548 days) of the filing date. Foreclosure cases are to be concluded within two

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

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 warranted by the needs of those cases. For simpler and many typical cases, the warranted time frame may be shorter than 18 months.

This Differentiated Case Management (DCM) Plan for civil casetypes does not include family law or domestic relations casetypes.<sup>2</sup> Civil cases with claims greater than \$5,000, up to \$30,000, may be filed in the District Court or circuit court. Cases with claims greater than \$30,000 must be filed in circuit court. Formal rules of procedure and of evidence apply in civil cases. Either side may demand a jury trial in cases with claims greater than \$15,000 (Md. Code § 4-402). If a jury trial is requested, the case must be heard in circuit court. A party to the case may request a jury trial at any stage of the process, up to the trial and judgment.

## **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 Civil Differentiated Case Management (DCM) Plan. The County Administrative Judge authorizes certain judges to hear various civil matters, and make final decisions whether, and to whom, a case gets assigned.

All judges must comply with this Plan and implement such provisions in their rulings. Individual judges shall effectively manage cases designated to them through dockets or specially assigned 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.

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<sup>2</sup> See Family DCM Plan for all family law (i.e., domestic) casetypes.

## Civil Tracks

A civil case may follow four potential tracks to resolution. The court defines all tracks at the time of filing, based on the case subtype. Tracks define expected case processing events, the timing of events, assignment, and the expectations for case duration. The case time standard for circuit court civil (non-foreclosure) requires that 98% of cases be disposed within 18 months (548 days). The case time standard for foreclosure requires that 98% of cases be disposed within 24 months (730 days).

The court bases the expected case duration on the time needed to reach resolution, which may be less than the case time standard. A case reaches disposition upon entry of a judgment or dismissal. The court commits itself to resolving various categories of civil cases, referred to as case subtypes, within a regular time frame and warranted by the needs of those cases.

**Table 1.1 – CIVIL TRACK 1**

Track	Case Subtypes	Case Duration
TRACK 1A Civil Expedited <i>A Case</i> <i>Information</i> <i>Report is <u>NOT</u></i> <i>Required</i>	<ol style="list-style-type: none"> <li>1. Administrative Agency Appeals;</li> <li>2. Certiorari;</li> <li>3. Confessed Judgments;</li> <li>4. Contempt</li> <li>5. District Court De Novo Appeals;</li> <li>6. District Court Jury Trial Prayers;</li> <li>7. District Court Record Appeals;</li> <li>8. Habeas Corpus; and</li> <li>9. Orphan’s Court Appeals.</li> </ol>	Filing to Disposition - 6 months (183 days)
Case subtypes described directly <i>above</i> <u>do not require</u> filing a case information report with the complaint or the answer.		
TRACK 1B Civil Expedited <i>A Case</i> <i>Information</i> <i>Report is</i> <i>Required</i>	<ol style="list-style-type: none"> <li>1. Contract (non-monetary), <i>i.e. breach of contract, due on promissory note, and others</i>);</li> <li>2. Declaratory Judgment;</li> <li>3. Foreclosure Right of Redemption;</li> <li>4. Forfeiture;</li> <li>5. Injunction;</li> <li>6. Mandamus;</li> <li>7. Mechanic’s Lien;</li> <li>8. Quiet Title;</li> <li>9. Other Tort (non-monetary);</li> <li>10. Sale In Lieu of Partition; and</li> <li>11. Specific Performance.</li> </ol>	Filing to Disposition - 6 months (183 days)

Track	Case Subtypes	Case Duration
Case subtypes described directly <i>above</i> <u>do require</u> filing a case information report with the complaint <u>and</u> the answer.		
<b>TRACK 1 NOTES:</b> The court ordinarily assigns an action to Tracks 1A & 1B (Civil Expedited) if it appears that, by its nature, it can be promptly tried with minimal judicial involvement. The court schedules a trial or hearing on the merits of the case within approximately 4 months (120 days) after the case is first at issue as to one original defendant. The case subtypes identified in Track 1 do not require a scheduling conference and/or pretrial conference.		

**Table 1.2 – CIVIL TRACK 2**

Track	Case Subtypes	Case Duration
TRACK 2A Civil Standard	<ol style="list-style-type: none"> <li>1. Condemnation;</li> <li>2. Other Civil (monetary); and</li> <li>3. Workman’s Compensation Appeals.</li> </ol>	Filing to Disposition - 12 months (365 days)
It is required that a case information report be filed with the complaint and the answer for Condemnation and Other Civil case subtypes, and requested for Workman’s Compensation Appeals.		
<b>TRACK 2A NOTES:</b> All cases assigned to Track 2A (Civil Standard) are scheduled for trial approximately 9 months (274 days) from when the case is first at issue as to one original defendant. Discovery shall be completed 90 days prior to the scheduled trial date.		
TRACK 2B Civil Extended	<ol style="list-style-type: none"> <li>1. Contract (monetary);</li> <li>2. Medical Malpractice;</li> <li>3. Motor Tort; and</li> <li>4. Other Tort (Personal Injury).</li> </ol>	Filing to Disposition - 14 months (426 days)
Case subtypes described directly above do require filing a case information report with the complaint and the answer.		
<b>TRACK 2B NOTES:</b> All cases assigned to Track 2B (Civil Extended) are scheduled for trial approximately 11 months (335 days) from when the case is first at issue as to one original defendant. The court conducts a scheduling conference within approximately 60 days from when the case is first at issue as to one original defendant. Motion and discovery deadlines are established at the scheduling conference as defined by Md. Rule 2-504.1. Pursuant to Md. Rule 2-504.2, the parties and their respective counsel must appear, in person, for a pretrial conference. The filing of a pretrial statement shall occur not later than five days before the pretrial conference.		

**Table 1.3 – CIVIL TRACK 3**

<b>Track</b>	<b>Case Subtypes</b>	<b>Case Duration</b>
TRACK 3 Civil Complex	Any case subtype where the projected trial time consists of 4 days or more.	Filing to Disposition - 16 months (487 days)
Track 3 requires filing a case information report with the complaint and the answer.		
<p><b>TRACK 3 NOTES:</b>            The court ordinarily assigns a case to Track 3 (Civil Complex) for individual judicial management by a designated or specially assigned judge.            All cases assigned to Track 3 (Civil Complex) are scheduled for trial within approximately 13 months (395 days) from when the case is first at issue as to one original defendant.            The court conducts a scheduling conference within approximately 60 days from when the case is first at issue as to one original defendant. Motion and discovery deadlines are established at the scheduling conference as defined by Md. Rule 2-504.1.            Pursuant to Md. Rule 2-504.2, the parties and their respective counsel must appear, in person, for a pretrial conference. The filing of a pretrial statement shall occur not later than five days before the pretrial conference.</p>		

**Table 1.4 – CIVIL TRACK 4**

<b>Track</b>	<b>Case Subtypes</b>	<b>Case Duration</b>
TRACK 4 Foreclosure	Foreclosure cases	730 days

### **Track Designation**

Track designations are automatically set at filing in accordance with the information provided on the Civil–Non-Domestic Case Information Report (CC-DCM-002). 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.

The DCM coordinator will assign all civil cases, as described within the DCM Plan, to one of four tracks. In the event a party or counsel disagrees with the designated track assignment, the party or counsel may submit a written request that states the reason(s) to change the track assignment. The parties or counsel shall send all requests to change the track designation to the attention of the DCM coordinator within 30 days of filing the complaint. The DCM coordinator will then notify all counsel or self-represented litigants identified as parties in the case about the request to change the track designation. Counsel or self-

represented litigants shall 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 DCM coordinator will assign a track based on track assignment guidelines. Either side may appeal the decision of the DCM coordinator to the County Administrative Judge by requesting a review in writing.

If a counter or cross claimant's case is consolidated with the original case, the counter or cross claimant does not have the right to challenge a track designation.

### **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 Charles 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 civil case, a litigant must follow these steps:

1. **File a Complaint.** Attaching a completed *Case Information Report* (CC-DCM-002), in compliance with (Md. Rule 2-111) for most civil case subtypes. The plaintiff shall file a completed case information report together with the 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 civil case subtypes do not require a case information report (according to "Committee Note" in Md. Rule 2-111):
  - a. Appeal from District Court<sup>3</sup>;
  - b. Appeal from orphans' court<sup>4</sup>;
  - c. Certiorari in circuit court<sup>5</sup>;
  - d. Judicial review of administrative agency decision<sup>6</sup>;
  - e. Transfer from District Court on jury trial prayer<sup>7</sup>;
  - f. Confessed judgment<sup>8</sup>;
  - g. Dishonored instrument--on transfer from District Court<sup>9</sup>; and
  - h. Friendly suit.

The following special proceedings:

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<sup>3</sup> Rules 7-101 through 7-116

<sup>4</sup> Code, Courts Article, § 12-502

<sup>5</sup> Rule 7-301

<sup>6</sup> Rules 7-201 through 7-210

<sup>7</sup> Rule 2-326

<sup>8</sup> Rule 2-611

<sup>9</sup> Code, Commercial Law Article, § 15-802

- a. Burial ground sale<sup>10</sup>;
- b. Condemnation, when filed by State Roads Commission for un-accelerated quick-take<sup>11</sup>;
- c. Contempt, civil or criminal, other than for violation of order or judgment entered under Code, Family Law Article<sup>12</sup>;
- d. Foreclosure<sup>13</sup>;
- e. Habeas corpus<sup>14</sup>;
- f. Judicial release from confinement for mental disorder<sup>15</sup>;
- g. Judicial sale<sup>16</sup>;
- h. Lien instrument--action to release<sup>17</sup>;
- i. Lis pendens--proceeding to establish or terminate<sup>18</sup>;
- j. Maryland Automobile Insurance Fund or uninsured motorist--action against<sup>19</sup>;
- k. Mechanics' lien<sup>20</sup>; and
- l. Tax sale<sup>21</sup>.

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<sup>10</sup> Rule 14-401

<sup>11</sup> Code, Transportation Article, §§ 8-318 through 15-208

<sup>12</sup> Rules 15-201 through 15-208

<sup>13</sup> Rules 14-201 through 14-210

<sup>14</sup> Rules 15-301 through 15-312

<sup>15</sup> Rule 15-601

<sup>16</sup> Rules 14-301 through 14-306

<sup>17</sup> Rule 12-103

<sup>18</sup> Rule 12-102

<sup>19</sup> Rules 15-801 through 15-805

<sup>20</sup> Rules 12-301 through 12-308

<sup>21</sup> Rules 14-501 through 14-506; Code, Tax-Property Article, §§ 14-801 through 14-854

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 their 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 the *Request for Waiver of Prepaid Costs* (CC-DC-089); and/or
  - b. Representation by a civil legal aid lawyer or attorney assigned via a pro bono organization such as Maryland Volunteer Lawyer Services; and/or
  - c. 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).

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 (Md. Rule 2-112). The plaintiff must have the summons 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; summons; and case information report. In Charles County, there are three legal ways to deliver these documents to the defendant: 1) Certified Mail sent by an adult over the age of 18; 2) Private Process; and 3) Sheriff. A plaintiff cannot serve the summons on the defendant.
4. **Proof of Service.** The court requires that the plaintiff file an *Affidavit of Service (Private Process)* (CC-DR-55) or *Affidavit of Service (Certified Mail)* (CC-DR-56) form to prove that the other side has been notified, or served. The plaintiff cannot serve the summons and must provide service through a third party over the age of

18. 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 his/her case on the trial date.

5. **Alternative Service.** You may use the Motion for Alternate Service only if you have *not* been able to find the opposing party in order to serve him/her with the complaint or petition and the Writ of Summons from the court. This type of service will slow down your case. If you have any way to locate the other party and serve them you should try that first. There is no guarantee that the court will grant your motion for alternate service. If service is not obtained within 120 days after the case is filed, the case is subject to dismissal for lack of jurisdiction. The plaintiff should contact an attorney for assistance with methods of alternative service.
6. **Reissuance of a Summons.** Reissuance of a summons will neither toll the deadline for a Motion for Alternative Service, nor will it prevent the issuance of a Notice of Dismissal under Md. Rule 2-507 for failure to obtain jurisdiction over a party. Further, reissuance of summonses will not generate a new notice and/or scheduling order, upon service of any co-defendants, based on the date of reissuance. If no affidavit of service is on file with the Clerk's Office within 30 days of the re-issuance of a summons, a status hearing will be set.
7. **Lack of Jurisdiction.** Between the filing of the complaint and service, the court may dismiss cases for lack of jurisdiction, and following service, the court may dismiss for lack of prosecution. 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 defer the order of dismissal, or the case will be dismissed without prejudice. After 30 days, the Clerk's Office reviews and dismisses the case. The Clerk's Office makes a motion docket entry that the case is dismissed for lack of jurisdiction. A written request to defer dismissal under Md. Rule 2-507 shall state the specific deferral period sought and the reasons for such request.

**Answer**

The defendant must file an affirmative answer, typically within 30 days after they receive a summons, for most circuit court civil case subtypes (Md. Rule 2-321).<sup>22</sup> See exceptions in 1 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, they are required to file with the answer a defendant's information report.

**Request for Order of Default**

If the defendant has been served and has failed to file an answer by the required time, the plaintiff may file a *Request for Order of Default*. Upon receipt of either an answer or an Order of Default, the plaintiff must file a *Request for Hearing or Proceeding* so that a court date will be set.

**Lack of Prosecution**

Following service, the court actively dismisses cases for lack of prosecution after one year from the last docket entry under Md. Rule 2-507, although the majority of dismissals occur after the filing of an answer. Following service, if there is no filing of an answer or, following answer, no other action 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 defer the order of dismissal, or the court will dismiss the case without prejudice. After 30 days, the Clerk's Office reviews and dismisses the case. The Clerk's Office makes a motion docket entry that the case is dismissed without prejudice for lack of prosecution. A request to defer dismissal under Md. Rule 2-507 shall state the reasons for such request. If the court grants a motion to defer the order of dismissal, the judge will specify the deferral period in the order.

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<sup>22</sup> Exceptions include defendants who live outside the State of Maryland, resident agents, officers or agencies of the U.S. government, among others. See Md. Rule 2-321.

## Civil Case Events and Assignment – Tracks 1 Through 3

Case assignment, including a hearing date, scheduling conference, and/or trial date, for all circuit court civil (non-foreclosure) cases are set when a case is first at issue as to one original defendant.

The designated trial judge scheduled to hear a case, may not necessarily preside over its motions hearings, scheduling conference, or pretrial conference, except in complex cases assigned to Track 3, that require individual judicial management by a designated or specially assigned judge.

### Discovery

#### 1. Tracks 1A & 1B (Civil Expedited)

Discovery is informal for expedited civil cases. There should not be an expert report filed by either party. Upon filing of an expert report, and review by a judge, the case may transfer to another track for case management. Please see Table 1.1 for suggested case subtypes.

#### 2. Track 2A (Civil Standard)

Discovery shall be completed 90 days prior to the scheduled trial date. The parties or their counsel must file dispositive motions within 15 days after the date by which all discovery must be completed, consistent with Md. Rule 2-504. Please see Table 1.2 for suggested case subtypes.

#### 3. Track 2B (Civil Extended)

Discovery deadlines are established at the scheduling conference. Procedural and discovery motions may be filed up to 10 days prior to the pretrial conference. The parties or their counsel must file dispositive motions within 15 days after the date by which all discovery must be completed, consistent with Md. Rule 2-504. Please see Table 1.2 for suggested case subtypes.

#### **4. Track 3 (Civil Complex)**

Discovery deadlines are established at the scheduling conference. Procedural and discovery motions may be filed up to 10 days prior to the pretrial conference. The parties or their counsel must file dispositive motions within 15 days after the date by which all discovery must be completed, consistent with Md. Rule 2-504.

The court will resolve discovery disputes at the earliest opportunity.

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

The court supports the earliest possible utilization of alternative dispute resolution (ADR). In these cases, parties may utilize ADR in order 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. Parties may access ADR through a court order or on a private basis. Parties may request an order for ADR with an ADR practitioner, assigned by the court, at any time after the case is at issue. Please note that, pursuant to Md. Rule 17-208(b), the court's fee schedule shall apply only to ADR practitioners designated by the court. ADR in health care malpractice actions is mandatory pursuant to Md. Rule 17-203, unless all parties file with the court an agreement not to engage in ADR and the court finds that ADR would not be productive.

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

Unless otherwise established in the scheduling order, the deadline for completing ADR is 60 days prior to the scheduled trial.

##### **2. Location of ADR**

Unless otherwise agreed upon by all parties, ADR shall take place at a location in Charles County.

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

The parties or counsel must contact the facilitator to schedule ADR within 15 days from the

date the judge signed the order. The court mails the order to all parties or counsel, along with a confidential participant statement. The parties or counsel shall complete the enclosed confidential participant statement and forward it to the assigned ADR practitioner identified in the order. **Confidential participant statements should never be returned to the court.**

If the parties reach an agreement prior to the scheduling of, or scheduled ADR session, the parties shall promptly file a line with the court, with a copy to the ADR practitioner.

#### **4. Responsibility of the ADR Practitioner**

The ADR practitioner shall report the outcome of ADR to the court by submitting a status sheet to the ADR coordinator within 48 hours after the settlement conference or mediation is completed.

#### **Status Hearing on Re-Issued Summons (Applicable for Tracks 1 through 3)**

If no affidavit of service is on file with the Clerk's Office within 30 days of the re-issuance of a summons, a status hearing will be set. The plaintiff (if self-represented) or their counsel must appear to explain why the case should not be dismissed, without prejudice.

#### **Scheduling Conferences (Mandatory for Tracks 2B and 3)**

Scheduling conferences are held before a judge designated by the County Administrative Judge to hear these matters. The Assignment Office shall set a scheduling conference for cases assigned to Track 2B (Civil Extended), and Track 3 (Civil Complex), at intervals necessary to accommodate the scheduling of conferences pursuant to this Plan. Counsel and self-represented litigants are the only parties required to attend a scheduling conference. The court may hold a scheduling conference in chambers, in open court, by telephone or other electronic means. The court conducts scheduling conferences within approximately 60 days from when the case is first at issue as to one original defendant, in accordance with Md. Rule 2-504.1.

The goals of a scheduling conference include:

1. Providing an early opportunity for the parties to settle any of the issues in their case;
2. Confirming whether counsel and/or self-represented litigants agree on the established track assignment;
3. Discussing any contested issues;
4. Resolving matters relating to discovery;
5. Determining the benefit of alternative dispute resolution (ADR), or any other intervention by the court; and
6. Reviewing cases, considered complex, with both parties to define time limits for discovery, and determine whether additional parties will join the case.

### **Pretrial Conferences**

The court shall schedule a pretrial conference for cases assigned to Track 2B (Civil Extended), and Track 3 (Civil Complex), at the time of the initial scheduling conference. All parties and their counsel who will try the case must attend the pretrial conference. Should settlement terms require approval by a claims supervisor, claims representative or committee, government or corporate official or other individual or individuals, that person or those persons, with the full negotiating authority (not limited authority) must appear, in addition to the party or parties and their counsel. Furthermore, all parties, counsel, and representatives who attend must be prepared to discuss, in good faith, all issues in order to attempt to reach a fair and reasonable settlement or resolution of all open issues. Failure to comply with these provisions, including the failure to attend or to send a person with full authority to negotiate a reasonable settlement, may result in the enforcement of sanctions imposed by the court.

The completion of all discovery must be by the date established in the scheduling order, in advance of the pretrial conference. Additionally, the identification of all experts must be final in order to make the settlement discussions meaningful. This court will permit the

taking of *de bene esse*<sup>23</sup> depositions subsequent to the pretrial. The exchanging of witness lists and lists of exhibits must be completed as required by Md. Rule 2-504.2(b). Counsel and/or parties must be prepared to meaningfully discuss settlement and any other issues required for the preparation of a Pretrial Conference Order.

The court will consider the following matters at a pretrial conference<sup>24</sup>:

1. A brief statement by each plaintiff of the facts to be relied on in support of a claim;
2. A brief statement by each defendant of the facts to be relied on as a defense to a claim;
3. Similar statements as to any counterclaim, cross-claim, or third-party claim;
4. Any amendments required of the pleadings;
5. Simplification or limitation of issues;
6. Stipulations of fact or, if unable to agree, a statement of matters of which any party requests an admission;
7. The details of the damage claimed or any other relief sought as of the date of the pretrial conference;
8. A listing of the documents and records to be offered in evidence by each party at the trial, other than those expected to be used solely for the impeachment, indicating which documents the parties agree may be offered in evidence without the usual authentication and separately identifying those that the party may offer only if the need arises;
9. A listing by each party of the name, address, and telephone number of each non-

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<sup>23</sup> A deposition that is used or intended to be used in place of a witness' live testimony in court is referred to as a *de bene esse deposition*.

<sup>24</sup> Rule 2-504.2

expert whom the party expects to call as a witness at trial (other than those expected to be used solely for impeachment) separately identifying those whom the party may call only if the need arises;

10. A listing by each party of those witnesses whose testimony is expected to be presented by means of a deposition (other than those expected to be used solely for impeachment) and a transcript of the pertinent portions of any deposition testimony that was not taken stenographically;
11. A listing by each party of the names and specialties of experts the party proposes to call as witnesses; and
12. Any other matter that the party wishes to raise at the conference.

### **Pretrial Statement**

Counsel or the parties shall prepare and file a pretrial statement in accordance with Md. Rule 2-504.2 no later than five business days prior to the pretrial conference.

### **Pretrial Conference - Settlement**

The judge conducting the pretrial conference shall meet with the parties and their counsel in an attempt to facilitate a settlement in the case. All parties and their counsel must be prepared to discuss all aspects of the case in anticipation of settlement. In the event that the parties and/or their counsel reach an agreement, the court will enter an appropriate order or place the agreement on the record that day. The court will instruct the parties and/or their counsel, if necessary, to file an order or line of dismissal and pay any open costs within a specified time period.

Counsel designated to prepare any such final order must comply within the time frame established by the judge. Any disagreements between counsel regarding the language of the order must be resolved in a timely manner between counsel or by prompt notification to the court. The court may impose sanctions for failure to comply with this provision, including but not limited to monetary sanctions and/or counsel fees. Parties, counsel, and

all representatives with full authority may receive a notice to appear in court in order to determine, solely at the discretion of the court, the reasons behind a failure to timely file the appropriate order.

### **Settlement of Case after the Pretrial Conference**

If settlement occurs between the pretrial conference and the date of trial, counsel and/or parties shall notify the Clerk's Office in writing, with a copy to the Assignment Office, within seven days of settlement.

### **Trial**

Trials, and all court hearings, are date certain events identified by a scheduling order once a defendant files an answer. The Charles County Circuit Court will only permit a postponement of the trial date for good cause. At trial, all parties should prepare to present any witnesses, evidence, or exhibits to prove or defend against a claim.

## **Foreclosure Case Events – Track 4**

Foreclosure cases are quasi-judicial in nature, governed by the Real Property article and the Maryland Rules. The time standard from filing to disposition is 24 months (730) days. The court has little control over the pace of foreclosure cases and is not involved until the substitute trustee files an Order to Docket. From there, the case is sent to chambers only if there are motions or exceptions filed with the court. Any judge is able to review those motions or exceptions. However, certain motions are to be handled by the County Administrative Judge. Specifically, motions to defer dismissal or a request for a waiver of mediation fees, are to be handled by the County Administrative Judge. It is during this time frame that Notices of Suggested Bankruptcy may be filed in the case. If so, the case is immediately stayed until there is notice to the court that the stay has been lifted. However, if there is no suggestion of bankruptcy filed, the case continues in normal course.

When a Final Order of Sale and Referral to the Auditor is filed, the case is forwarded to a judge's chambers for review of the case file for deficiencies. If deficiencies are found, letters are immediately sent to the plaintiff with a deadline to remedy the deficiencies. If no

deficiencies are found, the Order for Sale and Referral to the Auditor is executed and the file returned to the clerk for transfer to a court auditor. Foreclosure files should be processed through judge's chambers within three weeks of receipt.

Thereafter, the court auditor requests that the substitute trustee provide a suggested audit and payment of the auditor's fee before the audit is prepared. If the suggested audit and/or payment of the auditor's fee is not received within 60 days after receipt of the file from the court, the file shall be returned to the court with a request for a hearing to compel the plaintiff/trustees to comply with the court auditor's request. The court shall schedule a show cause hearing within 45 days of receipt of the request from the court auditor. If the suggested audit and/or payment of the auditor's fee is remitted to the court auditor on or before the hearing date, the show cause will be discharged and the hearing date vacated. The court auditor should not retain the file longer than 60 days for any reason.

### **Alternative Dispute Resolution (ADR) - Foreclosure Mediation**

In a foreclosure action on owner-occupied residential property, the mortgagor or grantor may request foreclosure mediation. In foreclosure mediation, the parties and their counsel meet to discuss their positions, in an attempt to reach agreement on a loss mitigation program. Pursuant to Md. Rule 14-209.1(c), the mortgagor/grantor requests mediation by filing a completed request within 25 days after service of the initial filing or, if the Final Loss Mitigation Affidavit was not included in the initial filing, within 25 days after the mailing of the Final Loss Mitigation Affidavit. The request must be accompanied by a \$50.00 filing fee (unless the court waives the filing fee), and must be mailed to the secured party's counsel. The court transmits the mediation request to the Office of Administrative Hearings (OAH), which shall conduct the mediation within 60 days. This deadline may be extended for good cause, or by agreement of the parties. OAH sends notice of the scheduled mediation to the foreclosure counsel, the secured party, and the mortgagor or grantor. This notice directs each party to provide certain documents and information to the other party, and to the mediator.

Only homeowners who are living in the foreclosed property as their primary residence are

eligible to participate in mediation. Mediation is not available to homeowners of foreclosed rental or commercial properties (*i.e. if an individual owns a property; however, does not live at that property, they are not eligible to participate in foreclosure mediation*).

### **Paying the Foreclosure Mediation Fee**

Refer to [Summary of Charges, Costs, and Fees of the Clerks of the Circuit Court](#) for fees. The mediation filing fee is \$50.00. (*See Foreclosure, Request for Mediation.*)

Upon approval by the County Administrative Judge or designated judge, the court may waive the mediation filing fee. In order for the court to consider waiving the mediation fee, the mortgagor/grantor must complete and file a [Request for Waiver of Filing Fee for Foreclosure Mediation](#) (CC-80).

If the court does not grant a request for fee waiver or fee reduction in its entirety, the court will specify in its order the dollar amount that the mortgagor/grantor must pay. Also, the court will specify the amount of time, not to exceed 10 days, within which the mortgagor/grantor must make payment to the court. If the mortgagor/grantor does not make payment within the time allowed, the request for foreclosure mediation is stricken.

### **Suggested Audit - Show Cause Hearing**

After 60 days of the auditor's receipt of a foreclosure case, the file shall be returned to the court, either with a suggested audit or a request to schedule a show cause hearing. The Assignment Office will schedule the show cause hearing. The court may vacate the show cause hearing if a suggested audit is filed prior to the show cause hearing date. Auditors shall not retain possession of the files for a length of time greater than 60 days from the date the case was received, without permission of the County Administrative Judge. Permission may be obtained by the filing of a Motion for Appropriate Relief.

## All Civil Case Tracks

### Judgment and Orders

Following a trial, the Clerk's Office enters the judgment. The judge signs an order of the court on the same day as the scheduled trial date. Pursuant to Md. Rule 2-601, the date of judgment is the date the clerk enters the judgment into the electronic case management system. Types of judgments include: consent judgment; confessed judgment; default judgment; and summary judgment.

### Post-Judgment

Pursuant to Md. Rule 2-533, the parties have 10 days to file a motion for a new trial, or file a motion to alter or amend a judgment (Md. Rule 2-534), and 30 days to file an appeal. On appeal, the circuit court will review District Court cases, and the Court of Special Appeals will review circuit court cases.

### Post-Judgement Enforcement

After the court issues a judgment and the Clerk's Office enters it into the record, 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 they can take further legal action to enforce the judgment. Once the waiting period passes, there are three differed ways a creditor can collect on the judgment:

1. **Garnish** the other person's wages;
2. **Garnish** the other person's bank account; or

**3. Seize** 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 wages or bank account, or to seize 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.

## **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.

When appropriate, the County Administrative Judge may specially assign a case to a circuit court judge. Individual judges are responsible for the effective management of cases specially assigned to them; however, the scheduling of specially assigned cases must always be coordinated with the Assignment Office in order to ensure judicial availability. Specially assigned cases should be managed to the extent possible consistent with the provisions of this Plan, including adherence to the case time standards.

Special assignment does not guarantee priority status on the court's dockets. If the case is specially assigned, the specially assigned judge will make case management decisions and selection of a mutually agreed upon trial date. Case management of a specially assigned case shall remain consistent with the case time standards and in accordance with the basic Plan procedures outlined herein. The Assignment Office must clear the scheduling or re-scheduling of all specially assigned cases in advance to ensure judicial availability.

## Temporary Restraining Orders and Other *Ex Parte* Orders

All motions, petitions or complaints for temporary restraining orders or other *ex parte*<sup>25</sup> orders shall follow the rules for *ex parte* hearings, including the required affidavit. If the court grants a temporary restraining order, 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, the Assignment Office will schedule a hearing at the earliest possible time. (See Md. Rule 15-501 et seq.) This expedition handling of these cases is consistent with Md. Rule 16-302(4) which requires the "prompt disposition of ... *ex parte* matters."

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

## Motions in Limine

Counsel or the parties shall file Motions in Limine no later than 7 days prior to trial.

## Postponements

### Policy

It is the policy of the Circuit Court for Charles County, Maryland to provide timely justice for citizens for all of its case types and dockets. The court discourages requests to postpone court events.

Postponement motions must be in writing. All requests for a postponement, regardless of the type of hearing, must be made in the form of a written Motion for Postponement **prior to** the hearing sought to be postponed. The motion should include specific reasons for the postponement, the other party's position on the postponement (if possible), and a proposed order. The use of attachments, *i.e. previously received court notices, doctor's notes,*

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<sup>25</sup> Done by, for, or on the application of one party alone.

*etc.*, is encouraged. The court will grant a postponement only for good cause shown, and will evaluate, on a case-by-case basis, whether 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:

1. Counsel or the parties agree to a postponement;
2. The case has not previously been postponed;
3. Counsel or the parties have not completed discovery. [Please note that Md. Rule 2-508(b) provides, that when an action has been assigned a trial date, the trial shall not be continued on the ground that discovery has not been completed, except for good cause shown];
4. New counsel has entered an appearance or a party wants to retain new counsel;
5. Unavailability of a witness who has not been subpoenaed;
6. 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; and
7. Any postponement of trial beyond a second trial date setting.

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

1. Sudden medical emergency or death of a party, counsel, or material witness who has been subpoenaed;
2. A party did not receive notice of the trial or hearing date, through no fault of that party or that party's counsel;
3. 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;

4. Unanticipated unavailability of a material witness who has been subpoenaed;  
and
5. Illness or family emergency of counsel.

Should a conflict in assignment dates arise once representation accepts the scheduled hearing dates, counsel shall make every effort to obtain the presence of a partner or associate to act in one of the cases before requesting a postponement.

Information about the source of each postponement motion in a case, as well as the reason for any postponement granted by the court, shall be entered for that case in the electronic case management system.

### **Procedures**

Postponement procedures for civil cases scheduled in the Circuit Court for Charles County, Maryland, include the following:

#### **Authority to Grant Postponements**

The County Administrative Judge, or designated judge, shall consider requests to postpone a trial.

#### **Specially Assigned Cases**

Except as stated below, this limitation on postponement authority applies to all cases in the circuit court, including cases specially assigned to a judge. The procedures for postponing specially assigned cases are as follow:

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, or designated judge, must rule on postponements or scheduling that places a matter beyond the target date. The County Administrative Judge, or designated judge, will then confer with the specially assigned judge for a

recommendation as to the postponement. In addition, the Assignment Office must clear the scheduling or re-scheduling of all specially assigned cases.

### **Same Day Postponements**

Counsel or the parties that request a postponement on the day the case is set for trial or hearing, shall bring the matter to the court's attention **prior to** commencement of the court session. The original trial judge shall promptly refer the matter to the County Administrative Judge, or designated judge, for consideration. If the County Administrative Judge, or designated judge, denies the request for postponement, the case shall return to the original trial judge and courtroom for further handling.

Counsel or parties filing any civil motion, must do so with the Clerk's Office Civil Department. [Note: The court will **NOT** automatically grant consent or joint motions.]

## Interpreters

### 1. Request for Interpreter

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-DC-041) to the court 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 complexity of request.

Counsel or the parties should submit a Request for Accommodation for Person with Disability (CC-DC-049) to the court 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 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 Clerk's Civil Department prior to 48 hours of the scheduled proceeding (not including legal holidays).

## Forms

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

CC-DCM-002 [Civil Non-Domestic Case Information Report](#)

CC-DR-55 [Affidavit of Service \(Private Process\)](#)

[CC-DR-56 Affidavit of Service \(Certified Mail\)](#)

CC-DC-089 [Request for Waiver of Prepaid Costs](#)

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](#)