



Circuit Court for Cecil County
Differentiated Case Management Plan
Civil Cases

June 23, 2017



The Second Judicial Circuit of Maryland
Circuit Court for Cecil County

KEITH A. BAYNES
COUNTY ADMINISTRATIVE JUDGE

COURTHOUSE
129 EAST MAIN STREET
ELKTON, MARYLAND 21921
PHONE 410-896-5317
FAX 410-896-1054

ADMINISTRATIVE ORDER

In accordance with Maryland Rule §16-302(b), the Case Management Plan attached hereto shall be applied and interpreted in such a manner as to effect the prompt and efficient scheduling and disposition of all actions now pending or hereafter filed in the Circuit Court for Cecil County.

7-17-17

Date



Hon. Keith A. Baynes
County Administrative Judge
Circuit Court for Cecil County, Maryland

PART II CIVIL DIFFERENTIATED CASE MANAGEMENT PLAN

1. General Information

1.1 Types of Cases.

This Case management Plan applies to all civil non-domestic matters.

The following cases are subject to the Civil Differentiated Case Management (DCM) Plan, but because of the nature or statutory requirements of those cases, they are forwarded to the Assignment Office when at issue for assignment in accordance with the appropriate Maryland Rule, and will not be assigned to a track.

- Administrative Appeals
 - Worker's Compensation Appeals (only if there's no request for jury trial)
- Certiorari in Circuit Court
- Confessed Judgment
- District Court Appeals (de novo and record appeals)
- Foreclosures
- Forfeitures
- Habeas Corpus
- Inmate Grievances
- Landlord Tenant
- Liquor Board Appeals
- Mechanics Liens
- Orphans Court Appeals
- Friendly Suit

All other civil case types will be assigned to a track. Business technology and other complex civil cases are to be referred for custom management.

The goal of this Plan is to comply with the Maryland Circuit Court time standard: 98% of all civil cases, with the exception of foreclosure cases, are resolved within 18 months of the filing of the complaint. The case time standard for foreclosure is 98% within 24 months.

1.2 Pleadings

1.2.1 Civil Case Information Report. Pursuant to Maryland §2-111, a Civil Case Information Report (CCIR) shall be filed with all original pleadings in the case, and a copy shall be served on the defendant(s). The CCIR shall be filed in all civil matters. Exceptions noted in the "Committee Note" accompanying Rule §2-111 are as follows:

1. Appeal from District Court (Rules §§7-101 through 7-116);
2. Appeal from Orphans' Court (Code Courts Article, §12-502);
3. Certiorari in Circuit Court (Rule §7-301);
4. Judicial review of administrative agency decision (Rules §§7-201 through 7-210);

5. Transfer from District Court on jury trial prayer (Rule §2-326);
6. Confessed judgement (Rule §2-611);
7. Contempt for failure to pay child support, when filed by a government agency;
8. Dishonored instrument – on transfer from District Court (Code, Commercial Law Article, §15-802);
9. Domestic violence relief under Code, Family Law Article §§4-501 through 4-516, including Rule 3-326(c) transfer;
10. Friendly Suit;
11. Juvenile cause, other than action to terminate parental rights and related adoption or to expunge criminal record (Rules §§11-101 through 11-122; and
12. The following special proceedings:
 - a) Absent person – termination of property interest (Code, Courts Article, §§3-101 through 3-110);
 - b) Burial ground sale (Rule §14-401)
 - c) Condemnation, when filed by State Roads Commission for unaccelerated quick-take (Code, Transportation Article, §§8-318 through 8-321);
 - d) Contempt, civil or criminal, other than for violation of order or judgement entered under Code, Family Law Article (Rules §§15-201 through 15-208);
 - e) Fiduciary estate (Rules §§10-501 through 10-712);
 - f) Foreclosure (Rules §§14-201 through 14-210);
 - g) Guardianship, other than action to terminate parental rights (Rules §§10-201 through 10-305);
 - h) Habeas corpus (Rules §§15-301 through 15-312);
 - i) Judicial release from confinement for mental disorder (Rule §15-601);
 - j) Judicial sale (Rules §§14-301 through 14-306);
 - k) Lien Instrument – action to release (Rule §12-103);
 - l) Lis pendens – proceeding to establish or terminate (Rule §12-102);
 - m) Maryland Automobile Insurance Fund or uninsured motorist – action against (Rules §§15-801-15-805);
 - n) Maryland Uniform Interstate Family Support Act (Code, Family Law Article, §§10-301 through 10-359);
 - o) Mechanics' lien (Rules §§12-301 through 12-308);
 - p) Name change, other than in connection with adoption or divorce (Rule §15-901);
 - q) Paternity, when filed by government agency (Code, Family Law Article §§5-1001 through 5-1048);
 - r) Post conviction (Rules §§4-401 through 4-408); and
 - s) Tax sale (Rules §§ 14-501 through 14-506; Code Tax – Property Article, §§14-801 through 14-854).

1.2.2 Responsive Pleadings. A CCIR shall be filed with the responsive pleadings in accordance with Rule §2-323(h). If no CCIR is filed by the opposing attorney or party, the Court may proceed without the defendant's information.

Once the first answer is filed by any defendant, the case file is forwarded by the Office of the Clerk to the Assignment Office for assignment to a track.

In accordance with Maryland Rule §2-507, in any action against any defendant who has not been served or over whom the Court has not otherwise acquired jurisdiction, a Notification of Contemplated Dismissal shall be mailed by the Clerk to all parties at the expiration of 120 days from the issuance of original process directed to that defendant.

2. **Scheduling Orders.**

2.1 Standard Track. The following events will be set on a scheduling order within the times indicated from the filing of a responsive pleading by the defendant:

1. Motions to dismiss under Rule §2-322(b) are due by 15 days
2. Plaintiff's expert reports or Rule §2-402(e) (1) disclosures - 120 days (4 months)
3. Defendant's expert reports or Rule 2-402(e) (1) disclosures – 150 days (5 months)
4. Joinder of additional parties deadline is 90 days (3 months)
5. Discovery must be completed by 180 days (6 months)
6. All motions (excluding motions in limine) are due by 195 days (6.5 months)
7. ADR deadline date is 220 days (7.5 months)
8. Settlement conference is 270 days (9 months)

2.2 Extended Track. The following events will be set on a scheduling order within the times indicated from the filing of a responsive pleading by the defendant:

1. Motions to Dismiss under Rule §2-322(b) are due by 30 days (1 month)
2. Plaintiff's Expert Reports or Rule §2-402(e) (1) Disclosures - 210 days (7 months)
3. Defendant's Expert Reports or Rule 2-402(e) (1) Disclosures – 240 days (8 months)
4. Joinder of Additional Parties Deadline is 240 days (8 months)
5. Discovery must be completed by 270 days (9 months)
6. All Motions (excluding motions in Limine) are due by 300 days (10 months)
7. ADR Deadline Date is 330 days (11 months)
8. Settlement Conference is 390 days (13 months)

2.3 Settlement Conference Date. Counsel shall comply with Rule §2-504.2 in filing their pre-trial statement at least five days prior to settlement conference.

2.4 Trial Date. The case will be managed in such a manner as to facilitate settlement prior to or at the time of the settlement conference. A merits hearing will be scheduled only if and when a meaningful settlement conference fails to resolve all pending issues in the case. The purpose of this policy is to ensure that those cases scheduled for trial cannot be resolved by alternative dispute resolution (ADR) methods and that any case scheduled for trial is actually ready to go to trial. This policy is designed to facilitate settlement as early on in the case as possible to spare the parties unnecessary expense and delay. By setting a date for the merits hearing later in the case, the Court can more accurately predict the number of cases to be heard and the trial taking place on the scheduled day is far more likely. The Court will, in order to implement this policy, strictly enforce the scheduling order. This excludes business technology and other complex civil cases.

3. **Alternative Dispute Resolution.**

It is the policy of this Court to encourage the use of alternative dispute resolution in accordance with Title 17 of the Maryland Rules of Procedure. This Court therefore will issue an ADR in all civil non-domestic cases assigned to a track.

4. **Settlement Conference.**

4.1 Who Shall Attend

4.1.1 Counsel for each party, who will be trying the case, are required to be physically present for the settlement conference. No participation by telephone is permitted.

4.1.2 Parties must attend, whether or not they are represented by an attorney.

4.1.3 Insurance company representatives *with authority to negotiate a settlement* **must attend** unless an exception is requested and is granted by the Court. If exception is granted, the representative must be available by telephone.

4.1.4 **Failure of any party to attend may result in sanctions being imposed by the Court.**

4.2 Preparation for Settlement Conference.

Counsel is expected to have completed all discovery and taken all depositions (with the exception of a deposition of expert witness to be used at trial). Pre-trial statements shall have been *filed* at least five days prior to the settlement conference in accordance with Rule §2-504.2. Bringing the pre-trial statement to the settlement conference rather than filing it five days prior is not acceptable, as the settlement judge will not have time to review the statement prior to the beginning of the conference. Failure to comply with this requirement may result in a second settlement conference having to be set, no trial date being assigned and/or sanctions imposed by the Court. Counsel is expected to have attempted to resolve the case prior to attendance at settlement conference. Remaining issues unresolved should be clearly identified. Counsel must be prepared at the time of the settlement conference to meaningfully discuss settlement. Counsel shall bring trial calendars to settlement so that if a settlement does not occur, a trial date may be assigned. Attorneys are expected to have conferred with each other regarding amount of trial time which will be required and number of jurors needed.

4.2.1 Failure of Attorneys to Properly Prepare for Settlement Conference.

In order to have a meaningful settlement conference, all counsel must be prepared in accordance with this Plan and the scheduling order. Failure to properly prepare may result in a trial date not being assigned, a second settlement conference being set, and/or sanctions being imposed by the Court.

4.2.2 Failure of Attorney to Attend Settlement Conference.

If an attorney for a party in a case does not appear at settlement conference, which prevents settlement discussions, an order may be passed requiring payment of expenses to attorney(s) who appear.

5. **Motions.**

5.1 Procedure.

All motions shall be forwarded to the judge for consideration after the time has expired for response or after a response has been filed, whichever first occurs. The judge shall direct the Assignment Office to schedule a motion for hearing, if appropriate, in accordance with the applicable rules of procedure.

5.2 Time Allowed for Motions Hearings

All motions hearings are presumed to take 60 minutes, and will be limited to that amount of time, unless counsel notifies the Assignment Office or judge of the need for additional time, prior to the scheduling of said motions hearings.

6. **Merits Trial.**

6.1 Setting a Trial Date.

Trial dates on the merits are set by the Assignment Office at the settlement conference.

6.2 Voir Dire and Jury Instructions.

Counsel shall file voir dire questions and proposed jury instructions, which shall contain a witness list at least 48 hours before trial.

6.3 Video or Audio Depositions to be Used at Trial.

Any party intending to use any deposition recorded by videotape or audiotape shall comply with Rule §2-416. All equipment needs shall be communicated to the court five days prior to trial.

6.4 Day of Trial.

Counsel shall be in the courtroom 30 minutes prior to the start of the first day of trial in order to have any documentary evidence that shall be proffered into evidence pre-marked by the courtroom clerk and for any outstanding preliminary matters to be decided.

7. **Postponement Policy.**

This policy reflects Maryland Judicial Cabinet's (now the Executive Committee of the Judicial Council) definitions, as follows:

Postponement – a proceeding that was not held and is being rescheduled

Continuance – a proceeding that has begun and is extended for additional day(s)

The purpose of this policy is to promote timely disposition and the avoidance of unnecessary delay of cases in the Circuit Court for Cecil County in accordance with the Maryland Annotated Code and the Maryland Rules of Procedure.

Postponement of any previously set court date greatly increases the challenge to the Court in managing its cases expeditiously. It has a rippling effect on the court staff, assignment of judicial time, and allocation of resources generally. All dates, once set, are important dates. Trial/hearing dates which take the case beyond the Maryland case time standards are violations by the Court of the standards. Postponements will be granted only for substantial, unforeseen and unforeseeable reasons, the denial of which will make the possibility of a fair trial/hearing remote or non-existent.

In consideration of all postponement requests, the Court shall carefully apply all relevant sections of the Maryland Annotated Code and the Maryland Rules of Procedure, review possible effects of a postponement on the parties and witnesses, and evaluate future scheduling issues. The Court will meet the Maryland Circuit Court case time standards for processing cases. This will require a strict and uniformly applied postponement policy.

Attorneys are expected to know their schedules prior to entering their appearance in any case.

7.1 Requirements for Litigants in Making a Request for Postponement

- Requests for postponements shall be made as soon as counsel/party is aware that a reason for postponement exists.
- Requests, except those involving an emergency, shall be made within 15 days of the receipt of the Assignment notice.
- Requests made prior to the hearing or trial date shall be filed with the Clerk of the Court, and include a certificate of service.
- Requests shall include a statement that indicates the position of the opposing party and/or parties, on the request for postponement.

- Requests for postponements made by counsel as a result of a conflicting court date shall be accompanied by a copy of the assignment notice of the conflicting case. A conflicting case scheduled subsequently to the scheduling in Cecil County will not be a basis for postponement. (See Court of Appeals Administrative Order)
- Unless impossible due to emergency, requests shall include an alternate date agreed upon by the parties and the Assignment Office which is within the applicable Maryland Circuit Court case time standards. Alternate dates will only be reserved for 20 days. No request for postponement which does not include the alternate date will be considered. Requests for postponement which include the alternate date will not, by that fact alone, be successful; the reason(s) for the postponement must still meet the other criteria set forth herein. Requests to reschedule a court date to a date sooner than the original date will be granted when possible.
- On its own initiative, or if all parties are not in agreement to the postponement and/or dates for rescheduling the case, the Court may act upon the request without a hearing or issue an order requiring the parties to attend a scheduling conference.

7.2 Postponement.

No postponement requests in civil cases shall be granted except by the County Administrative Judge unless pursuant to specific written authorization issued by the Administrative Judge.

7.2.1 All postponement requests will be considered in accordance with Rule §2-508 in civil matters, as justice may require, for good cause shown. The Court will also apply the *Administrative Order for Continuances for Conflicting Case Assignment or Legislative Duties of the Court of Appeals*.

7.2.2 Any trial judge or magistrate, including a visiting judge, has the authority to deny a postponement. Only the Administrative Judge has the authority to grant a postponement in any case, except pursuant to specific, advance, written authorization issued by the Administrative Judge for another judge to do so.

7.2.3 Requests for postponement which would take the trial date beyond the case time standard will generally be denied. Postponements will not be granted for failures of discovery, vacation or training plans made after the trial date was set or not made known to the Court when the trial date was set, conflicts with other cases set after the trial date was scheduled, and/or last minute entry of appearance by counsel which creates a conflict with a previously set case in this or another jurisdiction.

7.2.4 There will be no indefinite postponements of any case. If and when a postponement is granted, the judge granting the postponement shall sign an order setting the new date. If the need for the postponement or continuance arises in open court or, because of emergency circumstances, an approved alternate date could not be provided in the request for postponement or continuance, the Court shall direct the parties to get a new trial date from the Assignment Office before leaving the courthouse or, if, because of the emergency one of the attorneys is not present, within 48 hours.

7.3 Continuance.

Trial judges and magistrates have authority to deny a continuance and limited authority to grant one.

7.3.1 Cases which start but do not finish as scheduled should be continued by the trial judge or magistrate to the next trial day and from day-to-day thereafter until completed unless impossible because of the unavailability of the trial judge or magistrate or the specific, substantial reason for the continuance. The next days' dockets do not create unavailability. As soon as the trial judge or magistrate knows the case will carry over, he or she will notify the Assignment Office so that planning for the next days' docket can commence as soon as possible.

7.3.2 Where a continuance is granted for a specific, substantial reason other than not finishing, it must be continued to a date certain, approved by all counsel and the Assignment Office and expressed in a written order, signed by the judge, which date will permit the case to conclude within the original time standard for that case type.

7.3.3 The parties have ample pre-trial time to conduct discovery, investigate and prepare their cases, including selection of expert and lay witnesses. Doing additional discovery and/or investigations is not a reason for continuance.

7.3.4 Only the Administrative Judge has the authority to grant a continuance for any reason other than carry over if the case is already outside the applicable time standard or the continuance will cause the case to conclude beyond the time standard.

7.3.5 The judge granting the continuance will communicate with judges in other cases as necessary to deal with conflicts. Where a carried over case creates a conflict with a case scheduled for trial in another court, the Circuit Court judge will communicate with the judge in the other court, to reach an accommodation which creates the least inconvenience for the parties and witnesses involved in the two cases.

7.4 Twenty-Five Day Postponement Plan

On motion of any party for a postponement filed within 25 days of the scheduled hearing and/or trial, such motion shall fully comply with all requirements for requesting a postponement outlined herein. Upon receipt such motion shall immediately be forwarded to the Assignment Office for verification of the proposed alternative date(s) submitted by counsel. Once the alternative date(s) has/have been verified, the Assignment Office will forward the request to the appropriate judge for consideration and ruling. Opposing Counsel is encouraged to file an immediate response to the request for postponement. The Court may grant or deny such request, with or without a hearing, as justice may require.

If a postponement is granted, all other provisions of the Scheduling Order shall remain in effect.

8. **Sanctions.**

8.1 The Circuit Court for Cecil County will take appropriate steps to ensure compliance with all scheduling orders and other orders issued in accordance with this Civil DCM Plan. If an attorney and/or party fails to comply with the scheduling order, or fails to participate in alternative dispute resolution or other proceedings as ordered without having first obtained a postponement or other waiver of this Court, a show cause order may be issued. A show cause hearing may then be held before the presiding judge to determine whether sanctions should be imposed on the offending party or counsel. Monetary or other sanctions may be imposed on any attorney or party who fails to comply with an order of this Court issued in accordance with the Civil DCM Plan.

8.2 Jury Cost.

When a jury trial is removed from the assignment at the initiative of a party, as provided in MD Rule §2-509, the Court may assess jury costs against a party or parties.