

Circuit Court for Baltimore County Civil Differentiated Case Management Plan

Pursuant to Md. Rule 16-202b.
(November 1, 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 the plan was modified once in July, 2000 to include a number of changes, chief among them was the development of the civil mediation program in October of 1998. This new plan incorporates a new Business and Technology track pursuant to Md. Rule 16-205. On January 3, 2006, the Plan was modified again to accommodate the scheduling of trial dates after the settlement conference for certain types of cases. In order to comply with Section 3-2A-06C of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland that states that courts shall order the parties to engage in alternative dispute resolution in medical malpractice cases at the earliest possible date, a Medical Malpractice ADR Track has been established. This became effective November 1, 2006.

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I. Civil (Non-Domestic) Case Information Report

Pursuant to Md. Rule 2-111, a Civil (Non-Domestic) Case Information Report must be filed with a complaint/petition and a copy must be served on the defendant/respondent. This form must be filed in all civil cases, except those cases that are exempt by a revised administrative order of the Chief Judge of the Court of Appeals dated December 10, 1996, effective January 1, 1997 (See list of these cases 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 which may be contrary to the intent of a party.

II. Assignment Guidelines

After receipt by the court of the first answer, the DCM Coordinator will review and assign the case to one of seven tracks: Expedited, Standard, Standard Mediation, Extended Standard Track, Medical Malpractice ADR Track, Business and Technology Track or the Complex Track. If an attorney or party disagrees with the designated track assignment made by the DCM Coordinator, the attorney or party may submit a request to change the track, in writing, stating the reason(s) why a different track assignment is needed. The DCM Coordinator will then notify all attorneys or unrepresented parties in the case to see if they concur with the request to change the track assignment. If the attorneys/parties cannot come to an agreement on a track assignment, the DCM Coordinator will decide on a particular track based on track assignment guidelines. The decision of the Coordinator may be appealed to the Administrative Judge. The DCM Office will assign all civil cases under the DCM plan to one of the following seven tracks:

(1.) Civil Expedited Track

An action will ordinarily be assigned to the Expedited Track if it appears that by its nature, it can be promptly tried with minimal pretrial discovery and other pretrial proceedings. Discovery (if applicable) must be completed 50 days from the date an answer is filed. All motions in expedited cases (excluding Motions in Limine) are due 60 days from the date the first answer is filed. With the exception of District Court Jury Trial Prayers and cases where there is an agreement to be scheduled as an expedited manner, settlement conferences will not be scheduled for a case in the Expedited Track. Pre-trial settlement conferences for District Court Jury Trial Prayers will be 75 days after the date the first answer is filed. (Note: Effective January 3, 2006, if an expedited case has a scheduling conference, a trial date will not be set until after the pre-trial settlement conference, however, the overall case disposition time for expedited cases will be 90 days after the first answer is filed.) Cases in the Expedited Track will not be referred to Alternative Dispute Resolution. Generally, cases in the Expedited Track will include the following:

1. Attachment Before Judgment;
2. Declaratory Judgment (Simple);
3. District Court Appeals *De Novo*;
4. District Court Jury Trial Prayers;
5. Foreclosure;
6. Injunction;
7. Mandamus;
8. Mechanic's Lien;
9. Name Change; and
10. Orphan's Court Issue.

NOTE: Certain cases may require a hearing to be held sooner than the 90 days established in the Expedited Track, such as, Landlord/Tenant cases [Annotated Code of Maryland, "Real Property Article," Section 8-402(b)(2)]. Where these requirements are set out by either statute or rule, cases will be set earlier than the time period for this track. Hearings for Administrative Agency Appeals and District Court Record Appeals will be set 60 days from the filing of the transcript.

(2.) Civil Standard Track

It is generally presumed that most civil actions will be assigned to the Standard Track. This is particularly true with respect to motor tort or other personal injury cases. Plaintiff's expert reports or disclosures under Md. Rule 2-402(e)(1) will be due within 90 days after the date the first answer is filed. Defendant's expert reports or disclosures will be due 120 days from the same date as well as the deadline for the joinder of additional parties. All discovery in this track must be completed within 165 days, and all motions (excluding Motions in Limine) are due within 6 months or 180 days. Likewise, if a case in the Standard Track is assigned to ADR, the deadline for completing ADR will be 180 days (six months) after the date first answer is filed. Pre-trial settlement conferences will be set 210 days or seven months after the date first answer is filed. (Note: Effective January 3, 2006, trial dates will not be scheduled in all civil standard cases until after the pre-trial settlement conference, however, the overall case disposition time for standard cases will be 240 days after the first answer is filed.) Fifteen days prior to trial, counsel must exchange the list of all exhibits and copies of all paper exhibits. Five days prior to trial will be the deadline for Motions in Limine including objections to exhibits. (Note: Documents will be deemed authentic if an objection is not filed.) Cases assigned to the Standard Track generally will include the following:

1. Condemnation;
2. Confessed Judgment (Vacated);
3. Fraud and Misrepresentation;
4. Intentional Tort;
5. Motor Tort;
6. Other Personal Injury;
7. Worker's Compensation Cases (Non-Jury); and
8. Other Civil Cases.

(3.) Civil Standard Mediation Track

Cases assigned to the Standard Mediation Track generally will include the following:

1. Contract cases;
2. Worker's Compensation Cases (Jury)
3. Other Tort Case; and
4. All other standard track cases where both parties consent to mediation.

Note: Cases assigned to the Expedited Mediation Track will generally include contract and other tort cases filed in the District Court but transferred to the Circuit Court on a jury trial prayer.

After screening the case information sheet to make certain that the case is appropriate for mediation, the DCM Coordinator will be responsible for placing the case on the Civil Standard Mediation Track. All mediators will be assigned to cases by the DCM Coordinator on a rotational basis. By mutual agreement of all parties and by written request, another court-appointed mediator may be appointed from the approved roster of court-appointed mediators. Private mediators who are not appointed by the court may be utilized by the parties if a written request is made to the DCM Coordinator and it is mutually agreed upon by all attorneys and all parties in the case. In the event that private mediators are utilized, it is the responsibility of the attorneys to report the disposition of the conference to the court. If one of the parties believes the need for mediation does not exist in the case and these reasons are stated in writing to the court, the Administrative Judge may remove the case from mediation and reschedule the case in the appropriate DCM track. Notifying the court of this request for removal shall be done within 30 days from the date of assignment.

Each party through his or her counsel is required to contact the mediator within 15 days of the receipt of the Scheduling Order and establish a mediation conference date. Once a mediation conference date is scheduled, a party (or parties) must provide 48-hour notice to the assigned mediator to postpone or cancel the scheduled mediation conference. Failure to provide the mediator with such notice will result in the party(ies) reimbursing the mediator the costs for two hours of time that the mediator reserved for conducting the mediation session. All mediation conferences shall be completed within 180 days from the assignment date on the Scheduling Order, unless all parties make a request in writing to extend the mediation deadline date.

A Mediation Conference Statement Form accompanies the Scheduling Order sent to all parties in cases referred to mediation. The respective form shall be fully completed by each party and mailed to the mediator five days prior to the scheduled mediation conference. As indicated on the Civil Mediation Instructions, a copy of this form does not have to be exchanged with opposing counsel or parties in the case. All attorneys and parties are required to attend and participate in the mediation conference. Any insurance carrier directly or indirectly involved in the outcome of the case, must designate a company representative with settlement authority to attend the mediation conference unless excused by the mediator.

Prior to the mediation conference, an agreement should be signed by all parties, attorneys and the mediator with respect to the confidential nature of the mediation proceedings. If the parties agree,

any communication made in or in connection with the mediation, which relates to the controversy being mediated, whether made to a mediator or a party, or any other person if made at the mediation session, is confidential. The mediator shall also preserve and maintain by agreement the confidentiality of all written and oral communications made in connection with or during a mediation session, except where required by law to disclose such information.

At the conclusion of the conference, if the case has not settled at the mediation conference, an immediate trial date shall be obtained by the attorneys and/or parties by contacting the Civil Assignment Office. If the case is settled at the mediation conference, a settlement agreement or consent order must be filed with the court. Failure to file these documents in a timely fashion or failure to obtain a trial date will result in a trial date being assigned to the case which will not be postponed by the court except in extraordinary circumstances. All cases referred to mediation will be scheduled for a pre-trial settlement conference, after an unsuccessful mediation.

(4.) Civil Extended Standard Track

All cases within this track will be scheduled for trial 345 days from the date the first answer is filed. (Note: Trial dates in this track are set at the time of first answer and not after the scheduling conference.) Plaintiff's expert reports or disclosures under Md. Rule 2-402(e)(1) are due six months after the date the first answer is filed, and defendant's reports or disclosures are due 210 days or seven months from the date of first answer. The deadline for the joinder of additional parties is also 210 days after the date first answer is filed. All discovery must be completed within 255 days (eight and one half months), and all motions (excluding Motions in Limine) will be due in 285 days (nine and one half months) after the date the first answer is filed. The completion deadline for all ADR in the Extended Standard Track will be the same as the motions deadline. Pre-trial settlement conferences will be set 315 days or ten and one half months after the date the first answer is filed. Fifteen days prior to trial (or 330 days after the date the first answer is filed), counsel must exchange the list of all exhibits and copies of all paper exhibits. Motions in Limine, including the objections to exhibits, are due five days prior to trial. (Note: Documents will be deemed authentic if an objection is not filed.) Cases in this category will include the following:

1. Asbestos;
2. Lender Liability;
3. Professional Malpractice (Except Medical Malpractice cases);
4. Serious Motor Tort;
5. Serious Other Personal Injury Cases; and
6. State Insolvency Cases

Factors that would be utilized to determine the seriousness of Motor Tort or Personal Injury cases would include one or more of the following: (1) medical expenses and lost wages over \$100,000; (2) the length of trial of five or more days; (3) the number of expert witnesses; and (4) the availability of out-of-state witnesses or parties.

(5.) Medical Malpractice ADR Track

- (A.) Track Referral- Consistent with the requirements of section 3-2A-06C of the Courts and

Judicial Proceedings Article, the court will notify all medical malpractice practitioners and litigants in the case that they have been assigned to the Medical Malpractice ADR Track. This will mean that within 30 days after the filing of the answer, the parties must agree to a mediator in the case, otherwise; the court will assign a mediator from the approved list of Baltimore County Medical Malpractice Mediators. The approved list appears on the court’s web page. Within 15 days after the court assigns a mediator to the case a party may object in writing to the selection stating the reasons for this objection. [Sec. 3-2a-6c (f)(2) of CJ&P] The DCM Coordinator will process all requests to the Administrative Judge. If the objection is sustained, another mediator will be assigned to the case, otherwise, the initial appointment will remain as assigned by the court.

(B.) Track Deadlines -Deadlines in this track are consistent with the deadlines established in the Civil Extended Standard Track except that an ADR deadline is established at 285 days after the filing of the first answer. The following represents the deadlines for this track:

- Motions to Dismiss under Md. Rule 2-322(b) are due by.....15 Days
- Dismissal Notice for unserved defendants (Md. Rule 2-507(B)).....120 Days
- Plaintiff’s Expert Reports or Md. Rule 2-402(e) (1) Disclosures.....120 Days
- Defendant’s Expert Reports or Md. Rule 2-402(e) (1) Disclosures.....180 Days
- Joinder of Additional Parties Deadline is.....210 Days
- Discovery must be complete by.....255 Days
- All Motions (excluding Motions in Limine) are due by.....285 Days
- ADR Deadline date is.....285 Days
- Settlement Conference.....315 Days
- Deadline/Exchange list of all exhibits & copies of paper exhibits.....330 Days
- Deadline for Motions in Limine, including objections to exhibits is.....340 Days
- TRIAL DATE is.....345 Days

(C.) Mediation Conferences-Within 15 days of the receipt of the scheduling order, each party through his or her counsel is required to contact the mediator and establish a mediation conference date. Once a mediation conference date is scheduled, a party (or parties) must provide 48-hours notice to the assigned mediator to postpone or cancel the scheduled mediation conference. Failure to provide the mediator with such notice will result in the party (or parties) reimbursing the mediator the costs for two hours of time that the mediator reserved for conducting the mediation session. Although earlier mediation is recommended, all mediation conferences shall be completed within 285 days from the assignment date on the scheduling order.

A Mediation Conference Statement Form accompanies the scheduling order sent to all of the party’s case, shall be fully completed by each party and mailed to the mediator 15 days prior to the scheduled mediation conference. [Sec. 3-2a-6C (h) of CJ&P] As indicated on the Civil Mediation Instructions, a copy of this form does not have to be exchanged with opposing counsel or parties in the case. All attorneys and parties are required to attend and participate in the mediation conference. Any insurance carrier directly or indirectly involved in the outcome of the case, must designate a company representative with settlement authority to attend the mediation conference unless excused by the mediator.

Prior to the mediation conference, an agreement should be signed by all parties, attorneys

and the mediator with respect to the confidential nature of the mediation proceedings. If the parties agree, any communication made in or in connection with the mediation, which relates to the controversy being mediated, whether made to a mediator or a party, or any other person if made at the mediation session, is confidential. The mediator shall also preserve and maintain by agreement the confidentiality of all written and oral communications made in connection with or during a mediation session, except where required by law to disclose such information.

At the conclusion of the conference, the mediator must notify the court if the case is not settled or is partially settled. If the case is settled, the parties shall notify the court that the case has been settled. A settlement agreement or consent order must be filed with the court. All cases referred to mediation will still be scheduled for a pre-trial settlement conference, then trial after the mediation. If an agreement is reached, a line must be filed with the court in order to cancel the pre-trial settlement conference and trial.

(6.) Civil Business and Technology Track

(A) Track Requests – Cases may be referred to the Business and Technology tracks in one of two ways, either by the request of the attorney or party in the case, or by referral from a judge. Once a request is made, the DCM Coordinator will review each case and make a track recommendation to the Administrative Judge using the following factors set out in Maryland Rule 16-205:

1. the nature of the relief sought;
2. the number of the parties and the diverse nature of the interests of the parties;
3. the anticipated nature and extent of pretrial discovery and motions;
4. whether the parties agree to waive venue for the hearing of motions and other pretrial matters;
5. the degree of novelty and the complexity of the factual and legal issues presented;
6. whether business or technology issues predominate over other issues presented in the action; and
7. the willingness of the parties to participate in ADR procedures.

(B) Scheduling Conferences – If the track assignment is approved by the Administrative Judge, the DCM Coordinator will contact one of the three designated Business and Technology judges who will review the file for any potential conflict issues. Within 30 days from the date of the answer (Md. Rule 2-504), a scheduling conference will be established through the DCM Office. At the time of the conference, the judge will discuss various issues with the attorneys including: the need for an expedited or standard track, the feasibility of ADR and the trial date. All decisions regarding the trial date will be cleared through the Central Assignment Office at the time of the conference. Unless otherwise agreed to by the parties and approved by the designated judge, mediators selected at the time of the conference will be chosen from the approved Business and Technology List of Mediators authorized by the Administrative Judge. If there is no opinion or disagreement as to

who should conduct the mediation, the Court will assign an approved mediator from the list to the case. One of the following two track selections will be made:

1. Expedited – Trial date is set within seven (7) months from the date of the first defendant’s response and the settlement conference is set within six (6) months;
2. Standard – Trial date is set within eighteen (18) months from the date of the first defendant’s response and the settlement conference is set within seventeen (17) months.

(C) **Emergency Relief** – Consistent with Md. Rules 15-501 through 15-505, all emergency relief requests in Business and Technology cases involving an injunction, preliminary injunction and temporary restraining orders must be initially reviewed by the chambers judge. If injunctive relief is granted, attorneys will be sent to the Central Assignment Office for a merits hearing date before a designated Business and Technology Judge. If no immediate relief is granted but further consideration may be given for a Business and Technology track, then the case could be referred to the DCM Office for review as described previously. All written requests for an emergency hearing in Business and Technology matters will be referred to the Administrative Judge for review and consideration.

(7.) Civil Complex Track

An action shall ordinarily be assigned to the Complex Track for individual judicial management if it appears likely that the case will require a disproportionate amount of time and expenditures by reason of the number of parties involved, the number of claims and defenses raised, the legal difficulty of the issues presented, the factual difficulty of the subject matter, or any combination of these factors. Cases in the Complex Track will be specially assigned, and all dates in the scheduling order will be agreed between the attorneys and the assigned judge. The exception to this provision is the trial date, which will be scheduled 450 days from the date the first answer is filed. Generally, the cases in this category will include the following:

1. Major Construction Contract;
2. Major Product Liability;
3. Designated Toxic Tort Claims; and
4. Class Actions Suits or other complex cases.

III. 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. 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.

(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.

(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.

IV. Postponement Policy

All requests for a postponement shall be made in writing. Requests for postponements because of a conflict with a trial in another court shall include a copy of the scheduling order

from the other court and shall be made within 15 days of receipt of this court's scheduling order. The Administrative Judge shall rule on all postponements and his or her decision shall be final.

If a postponement is granted, the Civil Assignment Office staff will contact the party requesting the postponement and provide him/her with available dates for rescheduling the trial. That party shall contact all other parties in the case and obtain an agreed date for trial. Failure to obtain an agreed date within a reasonable time period will result in the Civil Assignment Office resetting the trial on any available date with the party responsible for obtaining an agreed date not being allowed a postponement of the new date.

V. Settlement of the Case

If settlement occurs between the settlement conference and the date of trial, attorneys and/or parties shall notify the Central Assignment Office in writing.