

The Circuit Court for Howard County
Fifth Judicial Circuit
Family Law Differentiated Case
Management Plan

Approved by the Court of Appeals of Maryland
January 29, 2007

Second Revision 2010

The Honorable Diane O. Leasure
Administrative Judge
The Circuit Court for Howard County
8360 Court Avenue
Ellicott City, MD 21043

The Circuit Court for Howard County Family Law Differentiated Case

The Purpose of a Differentiated Case Management Plan (DCM) is to provide effective case management, in compliance with the Maryland Rules. The DCM includes a predictable course of action and the timely resolution for all family law cases. As a result, most family law cases should conclude within twelve months of filing, and the remainder should close within eighteen months of filing.

These policies and procedures apply to the following case types:

- * Absolute and Limited Divorces
- * Adoption
- * Alimony
- * Annulment
- * Child support
- * Contempt of any family law order
- * Custody/visitation
- * Guardianship
- * Post judgment modification of any family law order

The DCM plan is an overview of case processing. Case management may require the Court to occasionally alter procedures. Additionally, the plan is often updated and revised. For any questions regarding the plan, contact the Family Law Office at (410) 313-2225.

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Family Services Personnel

ADR Coordinator.....	(410) 313-3053
Calendar and Case Management Office (CCMO).....	(410) 313-3575
Court Social Worker.....	(410) 313-5959
Court Reporter Inquiry	(410) 313-2064
Juvenile Court Specialist	(410) 313-3254
Judicial Fax	
Family Law Office	(410) 313-2225
	or
	(410) 313-2403
Family Law Fax	(410) 313-2413
Permanency Planning Liaison/CINA Case Manager	(410) 313-3650
Supervised Visitation Manager/Juvenile Case Manager	(410) 313-4184

FAMILY LAW CASE MANAGEMENT

I.1 Case Review

Most domestic cases are reviewed immediately after an answer is filed and then set for a scheduling conference. However, Complaint for Absolute Divorce cases are set for a scheduling conference immediately after the case has been filed. The conference will be scheduled 30-45 days from the date an answer is filed or the Complaint for Absolute Divorce is filed.

A scheduling conference will not be set in the following case types; instead cases will be set directly for a hearing:

- Initial child support cases
- Modifications of child support or alimony
- Domestic cases in which one party is unrepresented and lives out of state
- Contempt
- Uncontested custody or visitation cases

Uncontested divorce cases will be set for a scheduling conference. Parties can come in on the day of the scheduling conference and after meeting with the Case Coordinator; they will be referred to a Master for an uncontested hearing. Or, alternatively, if counsel or parties prefer, they may request that their case be referred to an Examiner. All such requests should be filed in the Clerk's Office. All requests for this referral will be honored.

Agency Child Support Cases

Support matters initiated or defended by the Department of Social Services will be set for a hearing upon written request. This includes paternity, establishment of child support and contempt. These matters will not be set for a scheduling conference, a settlement conference or facilitation. The Master is, however, amenable to both conference calls and chambers conferences when appropriate. Postponement procedure is the same as that applicable to all other domestic relations cases.

Domestic Violence Cases

Domestic violence cases originally before the Circuit Court are scheduled in accordance with Md. Ann. Code, Fam. Law § 4-501 et. seq. Appeals from rulings of the District Court in domestic violence matters are scheduled in accordance with Md. Ann. Code, Fam. Law § 4-507.

Military

When there is a party to a custody case who is being deployed, when that party returns, he or she is entitled to an expedited hearing upon petitioning for a change of custody/visitation/access.

I.2 Scheduling Conference – Order and Procedure

The conference will take place on Fridays in the Courthouse before the Family Law Coordinator. At the scheduling conference, a scheduling order will be generated which may include:

1. Referrals to service providers (mediation, parenting classes, property ADR, etc.
2. Appointment of children's attorneys (if both parties consent);
3. Child's best interest assessment or custody evaluation (if case appropriate, both parties consent and upon approval from the Court Social Worker) and the criteria for a custody evaluation is satisfied;
4. Master's hearing date (if appropriate 50-60 days from conference). Said hearing will be limited to three hours unless there is prior written permission from the Administrative Judge to extend;
5. Discovery deadlines;
6. Settlement conference date before a retired Judge (100-115 days from conference);
7. High conflict case designation;
8. Additional events if necessary (specifically related to high conflict cases).

Merits hearings will not be scheduled at the scheduling conference. This will ensure that only cases ready for trial will be scheduled.

All counsel and parties must be present at the scheduling conference, unless:

1. A party lives out of state and is represented by counsel and counsel is available for the conference;
2. Counsel notified the Court and opposing counsel that the party cannot appear. If opposing counsel agrees, the conference will go forward. If counsel wants the opportunity to facilitate, the conference will be re-set.

Absent extreme hardship for counsel to attend, conferences are NOT conducted by telephone.

I.3 Case Complexity – Procedure

In addition to a scheduling order, determination of the complexity of the case (which determines deadlines) will be made at the scheduling conference. Criteria for complexity must be satisfied prior to the extension of deadlines.

Counsel will not determine what referrals and/or hearings are scheduled, and custody will not be bifurcated. All cases will follow a general course of action, with the ability to extend deadlines, if case complexity requires such. All cases with *pendente lite* issues, and upon request by either party at the scheduling conference, will be set for a Master's hearing.

All hearing dates will be scheduled at the conference regardless of whether grounds (at the time of the conference) are ripe for an absolute divorce. It will be the responsibility of counsel or the parties to ensure proper pleadings are subsequently filed.

High Conflict Procedure

At the scheduling conference, upon motion or recommendation by a Judge or Master, a case may be identified as high conflict. The high conflict recommendation will then be given to the Administrative Judge for review and track assignment. See page 22 for examples of high conflict cases.

Once designated as a high conflict case, the case will follow a very specific course of action. First parties/counsel will receive a standard scheduling order, which may include a *pendente lite* hearing date and settlement conference date, as well as special judicial assignment, dates for a status conference and a pre-trial conference. Unless the case settles completely, all of the above referenced court events are mandatory.

High Conflict Track:

1. Scheduling conference
2. *Pendente lite* hearing
3. Status conference
4. Settlement conference
5. Pre-trial conference
6. Trial

The *pendente lite* hearing is the first hearing scheduled and will take place before a master. If both parties/counsel agree, high conflict cases may be scheduled for a full day *pendente lite* hearing. All other aspects of a standard p.l. hearing will apply (exception procedure, transcript request, etc.)

The status conference is a mandatory conference call with the Judge assigned to the case. If any motions are outstanding, they will be discussed during the conference call. Any services may be ordered at this time (evaluations, children's attorney appointments, etc.) and the status of discovery will be documented.

A retired Judge will conduct the settlement conference. He or she will direct the conference as parties work towards settlement. If the case does not settle, at the conclusion of the conference, the parties will receive a trial date.

A retired judge will also conduct the pre-trial conference. If the case does not settle at the pre-trial, parties will proceed to trial on the previously scheduled date.

I. 4 Additional Conferences/Procedures

Settlement Conferences

Settlement conferences will take place before a retired Judge. All discovery, as specifically ordered, shall be completed prior to the conference. Parties and/or counsel should be fully prepared to settle the case. There is no cost for the conference and it will take place in the Courthouse. The conference will not be on the record. However, if the case settles, an agreement can be placed on the record. If the case does not settle, parties will be instructed to go to the case management office to get a trial date. The trial date will usually be scheduled 60 days from the conference and may not exceed case time standards.

Settlement of the Case

If a case settles prior to any scheduled event, counsel should notify the Case and Calendar Management Office (CCMO) and the appropriate chambers of the settlement. If a consent is received and the case no longer requires a hearing, the case will be removed from the docket. If a settlement is reached, but grounds are not ripe for an absolute divorce, parties will need to withdraw any prayer for limited relief (or absolute relief if fault grounds were alleged), an example can be found on page 24. If an uncontested hearing is needed, testimony may be taken on the day of the scheduled contested hearing. The court will require a fully executed consent order prior to the removal from the docket; or parties must appear and place the agreement on the record.

Chambers Conferences

There are certain situations in which a case needs court intervention. In appropriate circumstances the Masters are willing to handle issues in an informal manner. Counsel should contact the Master's office directly or the Family Law Coordinator to determine if a chambers conference is necessary.

The Masters are amenable to conference calls with attorneys to clear up minor issues immediately before and after *pendente lite* or modification hearings. This can be a cost effective and rapid way to resolve minor problems. Additionally, upon request, the

Masters are amenable to chambers conferences prior to a hearing to assist parties in settlement negotiation or narrowing of the issues. Be judicious in your requests.

Status Conferences

In some circumstances, the court may schedule a status conference. For example, if counsel does not timely submit an order, if a party fails to appear for a court event or if pleadings are incorrect, the court may schedule a status conference. The conference will be held in open court. They are brief and always non-evidentiary. Failure to appear for a status conference may result in case dismissal.

Except for the above circumstances, an appropriate MOTION must be filed for any request for relief. Litigants and/or counsel should NOT send letters to chambers regarding existing or closed cases.

I. 5 Exceptions Procedure

In accordance with Md. Rule 9-208 (f), a party may file exceptions to a Master's recommendations within ten days after the recommendations are placed on the record or served. A transcript request must be filed with the exceptions, or a certification that no transcript is necessary to rule on the exceptions. The Court Reporter's Office will give a price estimate within two days of the exception filing and payment must be made within ten days or exceptions will be deemed to be not timely filed. The transcript should be completed within 30 days of payment. In an effort to expedite the process, parties/counsel may call the Court Reporter's Office directly for a price estimate. Partial transcript requests are permitted.

The court may rule on exceptions without a hearing, unless a hearing is requested upon filing, or by the opposing party with ten days after service of the exceptions. If a hearing is needed, CCMO will set the matter within 60 days of filing. The exceptions hearing date will not postpone any other scheduled event and all requirements in the scheduling order will remain in effect.

Counsel may purchase a CD of the hearing directly from the Court Reporter's office.

Immediate Order Recommendations

When the Master recommends entry of an immediate order, pursuant to Rule 9-208 (h) (2), the parties/attorneys must do the following:

1. Contact CCMO by conference call with all involved parties and arrange a brief hearing before the duty Judge. The purpose of the hearing is to determine whether an order will be entered immediately; OR
2. Contact the Master's office by conference call with all involved parties and notify the Master's staff that all parties waive the right to oral argument before the court, and ask that the immediate order be forwarded to a Judge.

I. 6 Striking of Attorney's Appearance

Pursuant to Md. Rule 2-132, unless a client has another attorney of record, attorneys must file a motion to withdraw their appearance. The Rule also states in part that “the court may deny the motion if withdrawal of the appearance would cause undue delay, prejudice, or injustice.” Therefore, if there is any matter scheduled in the case within 30 days of a motion to withdraw, extenuating circumstances may have to exist in order for the court to grant the motion.

Extenuating circumstances may include safety concerns or issues of perjury.

Nonpayment of legal fees will not constitute extenuating circumstances.

I. 7 Emergency Procedure

The Masters review all requests for emergency hearings, with the exception of domestic violence *ex parte* relief. For emergency hearings, there must be an emergent situation (one that cannot safely wait for a regular hearing.) There also must be service on the other side prior to filing the emergency. Please title your request “Request for Emergency Relief.” For *ex parte* relief, there must be a certification that the other party or attorney was notified in advance that request for *ex parte* relief would be made. See MD. Rule 1-351.

Requirements and Procedure:

1. There must be a Complaint or Petition that has been filed **in the Clerk's Office** and served on the other party.
2. The Clerk's Office will bring the document to the Master's office for review and a determination will be made whether an emergency exists.
3. The pleading requesting emergency relief, must be accompanied by an affidavit or documentation of the alleged emergency.
4. There must be certification of notice to the opposing party/counsel required by Md. Rule 1-351.
5. The pleading should be accompanied by a proposed Order.

What is an emergency:

1. Any risk of substantial, irrevocable harm that will likely occur unless the matter is considered immediately.
2. Any imminent threat to the health, welfare and safety of a party or a party's child.
3. Imminent removal of a child from the state without advance notice to the other parent.

What is NOT an emergency:

1. Non payment of support or other financial obligations.
2. School transfers.
3. Visitation disputes.

Recommendations/Rulings:

1. The Master may recommend that the Court grant immediate relief on the request and that an immediate hearing to follow to permit both parties to be heard on the issue.
2. The Master may recommend that the matter be set in for an expedited Master’s hearing on the emergency issues.
3. The Master may recommend that the emergency or *ex parte* relief be denied.

II. ALTERNATE DISPUTE RESOLUTION

II. 1 Mediation and Parenting Classes

Custody/access mediation and parenting classes may be ordered in contested custody and visitation cases, unless there have been allegations of domestic violence. Parties will be ordered to attend a six hour parenting seminar and two, two hour mediation sessions with a court-approved mediator. Counsel may, but does not need to, attend custody/visitation mediation.

Property mediation may also be ordered at the time of the scheduling conference. Parties must agree to participate in this type of mediation. Parties will be ordered to attend a six hour parenting seminar and two, two hour mediation sessions with a court-approved mediator. Counsel may, but does not need to attend, property mediation.

Parties will be ordered to contact the mediator directly to schedule mediation. The mediation sessions should be completed within 60 days, unless as ordered, case complexity requires additional time. Failure to attend mediation may result in case delay and/or sanctions.

Parties may attend parenting seminars conducted by the National Family Resiliency Center (NFRC), or a comparable parenting seminar. The course should address issue that will assist parents raising children together, while living separate and apart. The seminars should be completed prior to mediation and must be completed within 60 days.

Parties who live outside of Maryland may be required to attend a similar parenting class in a more convenient location.

The fee for mediation is \$200.00 per hour and the parenting class fee varies among providers.

II. 2 Fee Waiver Policy

If a party is receiving *pro bono* legal representation through an approved program, the fee for mediation and parenting seminars may be waived and the court may request that the mediators and/or parenting seminar provider deliver service *pro bono*.

For self-represented parties, the fee for mediation or parenting seminars may be waived if a Motion for Waiver of fees and related documents are filed. The Family Law Office can provide information and forms for the waiver. When a Motion for a fee waiver is received, the Family Law Office will review and forward to the Administrative Judge for consideration. The Court will consider income, assets and any other appropriate information.

If an Order waiving fees is entered, to the extent that funds are available, the fees will be paid by the Circuit Court for Howard County, Family Law Grant Fund. The mediator and/or parenting seminar provider must submit a bill to the Family Law Office, and complete the necessary County forms, for payment of the waived fee. If funds are not available, the court may request that the mediators and/or parenting seminar provider deliver service *pro bono*.

II. 3. Facilitation Program

Facilitation may be ordered in a case. If facilitation is ordered, parties cannot elect not to participate, and if represented, counsel must be present. As stated above, if an agreement is reached, the Court will make every effort to have that agreement placed on the record.

Facilitation will take place in the courthouse with a volunteer appointed by the Court. There is no cost for this program.

If you would like to volunteer as a facilitator, in accordance with Md. Rule 17-105, Howard County facilitators must:

1. Complete a facilitator training or have at least 5 years experience in the active practice of law.
2. Have specialized experience in dealing with the issues in dispute.
3. Complete a facilitator application.

Only family law facilitations without financial issues will be assigned to a facilitator whose profession is other than that of an attorney.

Court facilitators are volunteer positions, however, attorneys may include this time towards *pro bono* hours. For more information, contact our ADR coordinator at (410) 313-3057.

II. 4. Children's Best Interest Assessment (CBIA)/Custody Evaluations

Court-sponsored evaluations or assessments are conducted by the Court Social Worker. She reviews case files, specifically focused on the children's needs and well-being, as well as the family interactions and dynamics. She will then make a determination whether an evaluation or assessment should be ordered. These procedures are described in detail below, however, the primary difference between the two is the custody evaluation is more appropriate for high conflict cases and cases in which parents have mental health issues. The evaluation generates a written report with recommendations on custody and visitation. Alternatively, the CBIA works best when parents are able to communicate enough to make joint decisions regarding their children. This procedure includes a verbal presentation followed by mediation.

Requests for Assessments/Evaluations

Counsel can either file a motion for an assessment or an evaluation or make a verbal request at the scheduling conference. A Master or a Judge may also order this procedure. After the Court Social Worker reviews the case and the criteria for an evaluation is satisfied (see attached criteria, page 23), an order will be generated. When parties have the financial ability to pay for a private evaluation, they may be required to do so. In most instances, the parties may need to choose between an evaluation/assessment and an appointment of a children's attorney to avoid duplication of efforts.

Children's Best Interest Assessment (CBIA)

After the CBIA is ordered, the Court Social Worker will send out information to the parties to begin the process. The Court Social Worker will decide the necessary steps for the assessment (interviews with parents and children, professional contacts, home visits, etc.) If at any point during the Assessment, the Court Social Worker believes a psychological evaluation is needed, she will terminate the assessment process. Parties will then be instructed in writing that they may file a motion for a psychological evaluation or any other family service, such as a Child's Best Interest Attorney.

The CBIA will be completed for a court mediation conference, scheduled by the Family Law Office and held before the settlement conference, and if possible, before the *pendente lite* hearing. The conference will include all parties, counsel, the social worker and a mediator. The social worker will present to the parties a summary of conclusions and then be available to answer any questions or concerns. After everyone has had an opportunity to understand the Court Social Worker's findings and/or recommendations, mediation will begin.

The mediation will focus on child-related issues and will last approximately one to two hours. If the parties settle, the agreement can be placed on the record or counsel can follow up with a fully executed consent order. If the case does not settle, the Court and parties will receive a written summary of the CBIA. A full written report will not be prepared.

Ultimately, if the case does go to trial, the Court Social Worker may be subpoenaed by counsel, but will be treated as the court's witness. The court strongly discourages counsel from issuing subpoenas to court employees.

Custody Evaluations

The evaluation is also conducted by the Court Social Worker. Generally, for a two parent custody evaluation, the Social Worker has a joint interview (if parents are comfortable meeting together, desire joint custody and there are no allegations of domestic violence) and an individual interview with each parent in the office (at the court). The Court Social Worker will determine whether a home visit at each parent's home with the children and members of the household is necessary. There are professional collateral contacts for parents and children. The children's therapists are not contacted regarding therapy issues unless there is a Child's Privilege Attorney appointed by the Court. There are meetings with the children at each parent's home. Sometimes there are additional meetings with the children at school or a child in day care where they may be observed. There also may be a request for a substance abuse/alcohol evaluation or other evaluations.

In addition to meetings and observations, the parents are required to submit written materials, and when appropriate, the court file is reviewed and the Department of Social Services is contacted for a Child Protective Service Clearance Check. There may be other steps, such as an interview with grandparents or a visit to a home a parent is moving shortly. A written report is generated out of the process and the court has a time stipulation in which the report is to be submitted. A copy of the report is mailed to the attorneys. Most evaluations end with the report and recommendations for custody and visitation.

It is hoped that the report may result in the parents considering the children's needs and best interest and come to an agreement for a parenting plan. Ultimately, if the case does go to trial, the Court Social Worker may be subpoenaed by counsel, but will be treated as the court's witness.

III. ADOPTIONS

III. 1 Independent Adoptions - Initial Case Processing:

- A. Petition is filed. Upon receipt, the Clerk's Office sends a copy of the "Adoption Memorandum", DHR form, and Certificate of Adoption form to the Petitioners or counsel for the Petitioners.
- B. Clerk forwards the file to Family Law Office for review.
- C. The Family Law Office reviews and completes the adoption checklist. If the file is not complete, the Family Law Office issues a memorandum indicating what documents are needed for the case to proceed. If the file is not complete, the file will return to the file room until all necessary documents have been filed.
- D. If complete, the file is forwarded to the Court Social Worker to determine if a home study is needed. The adopting party should file a motion requesting either an Order for an Adoption Home Study or a Waiver of Home Study. Every contested adoption must have a home study investigation. Investigations take 90-120 days from the date of the order.
- E. All complete uncontested adoptions are referred to the Master's Office for an adoption hearing. (The Petitioner must include all signed necessary consents and certified copies of required documents prior to the scheduling of a hearing)
- F. All complete contested adoptions are scheduled for a scheduling

1. If any parent has not provided a written consent to the adoption, the adopting party must file a request for a show cause order.
2. Proof of service must be filed with the court.
3. The parent has 30 days from the date of service of the show cause to file a notice of objection to the adoption, if the parent lives in Maryland. If the parent lives out-of-state he or she has 60 days from the date of service to file a notice of objection. For a parent served outside the USA, the time to file a notice of objection is 90 days from the date of service.
4. After the Petitioners have filed proof of service the case will be scheduled for a contested adoption hearing before a Judge.

Independent Adoptions - Additional Case Processing:

All additional pleadings filed after the initial case filing are forwarded to the Family Law Office for review. The Family Law Office will refer the case to the Judge for any pending motions. The Family Law Office sends additional memoranda until the file is complete.

III. 2 Private Agency Adoptions

Private Agency - Initial Case Processing:

- A. Petition is filed. Upon receipt, the Clerk's Office sends a copy of the "Adoption Memorandum", DHR form, and Certificate of Adoption form to the Petitioners or counsel for the Petitioners.
- B. Clerk forwards the file to Family Law Office for review.
- C. The Family Law Office reviews and completes the adoption checklist. If the file is not complete the Family Law Office issues a memorandum indicating what documents are needed for the case to proceed. If the file is not complete ,the file will return to the file room until all necessary documents have been filed.
- D. All Private Agency Adoptions require a Home Study. The Petitioners must attach to the Petition all investigative reports, home studies, and post-placements reports. The adopting party should file a motion requesting a Waiver of Home Study if they would not like an additional Home Study. If the Petitioner does not request a waiver of a home study the file will be forwarded to the Court Social Worker for review.
- E. The Court Social Worker reviews the file to determine if an additional home study is needed.
- F. All complete uncontested adoptions are referred to the Master's Office for an adoption hearing. (The Petitioner must include all signed necessary consents and certified copies of required documents prior to the scheduling of a hearing)

As stated above, all additional pleadings filed after the initial case filing are forwarded to the Family Law Office for review. The Family Law Office will refer the case to the

Judge for any pending motions. The Family Law Office sends additional memoranda until the file is complete.

III. 3 Public Agency Adoptions

Public Agency Adoptions - Initial Case Processing:

- A. Petition is filed. Upon receipt, the Clerk's Office sends a copy of the "Adoption Memorandum", DHR form, and Certificate of Adoption form to the Petitioners or counsel for the Petitioners.
- B. Clerk forwards the file to Family Law Office for review.
- C. The Family Law Office reviews and completes the adoption checklist. If the file is not complete the Family Law Office issues a memorandum indicating what documents are needed for the case to proceed. If the file is not complete, the file will return to the file room until all necessary documents have been filed.
- D. The Family Law Office will refer all preliminary motions to the Judge for review.
- E. All complete Public Agency Adoptions are referred to CCMO for the scheduling of an adoption hearing before the Adoption Judge. (The Petitioners must include all signed necessary consents and certified copies of required documents prior to the scheduling of a hearing)

Public Agency Adoptions - Additional Case Processing

Also, as stated above, all additional pleadings filed after the initial case filing are forwarded to the Family Law Office for review. The Family Law Office will refer the case to the Judge for any pending motions. The Family Law Office sends additional memoranda until the file is complete.

IV. GUARDIANSHIP

The types of guardianship covered by this section are governed by Title 10 of the Md. Rules and Estates and Trusts Article sections § 13-704-13-710, including:

- Guardianship of a Minor
- Guardianship of the Person (Adult)
- Guardianship of the Property
- Specific transactions
- Emergency procedures

Guardianship of a minor, custody of a minor and kinship care are different legal entities. In order to determine which process is most appropriate, legal assistance is usually

required. In short, guardianship is a process that can be more limited in duration and more flexible than custody. Custody of a child requires more formal notice, allows for more formal discovery and cannot be changed without a finding from the court that there has been a material change of circumstance. Lastly, kinship care is a very specific procedure specifically designed to enroll a child in school and therefore more information regarding such is available from the school system.

Additionally, cases in which the Department of Social Services (DSS) has intervened in order to protect a child, i.e. the child has been determined in need of assistance (CINA), are not covered by this section and are addressed in The Circuit Court for Howard County Juvenile Differentiated Case Management Plan.

If a Petition for Guardianship is filed, agencies that may have an interest in the child WILL NOT BE NOTIFIED BY THE COURT regarding a specific filing. Therefore, if an agency such as DSS, the School Board, etc., has an interest in the child named in a Petition, the agency can obtain a copy of any open case file from the file room directly, OR, the Petitioner may provide a copy to such agencies.

The procedure for filing a Petition for Guardianship of a Minor is as follows:

1. The Petition is filed;
2. The court issues a show cause order with a scheduled hearing date in approximately 45 days;
3. Parties and counsel should appear for the hearing. If the Petition is uncontested, the merits of case may be heard at the show cause hearing and a final judgment may be issued. However, the Judge may order the Court Social Worker to perform an assessment, a best interest attorney appointment or any other service referrals at an uncontested or contested hearing;
4. If the petition is contested, parties will receive a trial date and they may additionally receive an order for the Court Social Worker to perform an assessment, a best interest attorney appointment or any other service referrals.
5. After the guardianship is granted, the guardian of the person must file an annual report with the court, which should address whether the grounds for the guardianship still exist. The Trust Clerk will monitor these cases, review the annual report and report to the Judge as necessary.

If a guardianship order is needed quickly for the purposes of **school enrollment**, please indicate such in a cover letter to the court accompanying the Petition. School enrollment is not an emergency; however if the cover letter indicates that school is an issue, a prompt or temporary hearing may be scheduled.

IV. 2 Guardianship of a Person (Adult)

This section applies to Petitions for Guardianship of the Person represented by private attorneys or self –represented individuals. The Petition for Guardianship must demonstrate by clear and convincing evidence that the requirements of Md. Code Ann. Estates and Trusts § 13-707 have been satisfied. This includes proving that there are no less restrictive alternatives available for the alleged disabled person. The contest of the Petition must comply with Md. Rule 10-201 and include:

1. Interested persons, see Estates and Trusts § 13-101 (j) and Md. Rule 10-103 (f).
2. Least restrictive alternatives.
3. Physician’s certificates
4. Nature, value and location of the alleged disabled person’s (ADP) property
5. Two certificates of incapacity as set forth in Md. Rule 10-202.

Please note the requirements of the least restrictive alternatives and physician’s certificates are only necessary in the Adult Guardianship Petitions.

Show Cause Issued

If the Petition is in compliance with all requirements, a show cause order will be issued by the court. The Order will include:

1. An Order of Appointment of an attorney for the ADP. The order will be mailed with the show cause order and will be made to either our state contracted attorney, or if the ADP has income or assets, the court may use discretion to appoint a private attorney;
2. Show Cause hearing date (approximately 45 days from issuance).

The court will send the Show Cause Order and the Appointment Order to the Petitioner. The Petitioner must serve all interested parties with a copy of the Petition, the Show Cause Order, the Order Appointing Counsel, Notice to Interested Persons and Advice of Rights. The Petitioner must serve the ADP, unless counsel for the ADP had agreed to accept service. As affidavit of service should be submitted for proof of service on all interested parties.

Hearing/Trial

If service has not been effectuated on all interested parties, the petitioner or any interested party should submit a line to the Clerk’s Office requesting a new Show Cause Order with a new hearing date. However, if service has not been effectuated, however the petitioner has made diligent attempts to do so, parties should appear at the scheduled date. If the case is **uncontested**, the show cause hearing will serve as the final guardianship hearing. If the case is **contested**, the parties must appear at the show cause hearing and will receive a trial date, possible orders for mediation, a scheduling order upon request, and

any other outstanding matters will be addressed at the show cause hearing. The ADP has a right a jury trial on the issue of capacity and this may be waived at the show cause hearing.

Post Guardianship Requirements

After a final judgment is entered appointing a Guardian of the Person, the guardian must submit an annual report fulfilling the requirements in compliance with Estates and Trusts § 13-708 (b) (7) and Md. Rule 10-206. the report should address whether the grounds for the guardianship still exist. The Trust Clerk shall monitor open guardianship cases and if the annual report is not submitted, a hearing will be scheduled.

Termination

Upon Petition, the court may terminate a Guardian of the Person for good cause or death, see Md. Rule 10-301.

IV. 3 Guardianship of Property

The Petition for Guardianship of the Property is filed and the petitioner must be prepared to demonstrate by a preponderance of the evidence requirements of Estates and Trusts § 13-201. The content of the Petition must comply with Md. Rule 10-301, including:

1. Interested persons, see of Estates and Trusts § 13-101 and Md. Rule 10-103 (f).
2. Nature, value and location of the ADP's property.

Show Cause Order

If the Petition is in compliance will all statutory requirements, the court will issue a Show Cause Order. The order will include a show cause hearing date approximately 45 days from issuance.

The court will send the Show Cause Order and the Appointment Order to the Petitioner. The Petitioner must serve all interested parties with a copy of the Petition, the Show Cause Order, the Order Appointing Counsel, Notice to Interested Persons and Advice of Rights. The Petitioner must serve the ADP, unless counsel for the ADP had agreed to accept service. As affidavit of service should be submitted for proof of service on all interested parties.

Hearing/Trial

If service has not been effectuated on all interested parties, the petitioner or any interested party should submit a line to the Clerk's Office requesting a new Show Cause Order with a new hearing date. However, if service has not been effectuated, however the petitioner has made diligent attempts to do so, parties should appear at the scheduled date. If the

case is **uncontested**, the show cause hearing will serve as the final guardianship hearing. Additionally, the petitioner may request that the Court waive the hearing requirement in uncontested cases.

If the case is **contested**, the parties must appear at the show cause hearing and will receive a trial date, possible orders for mediation, a scheduling order upon request, and any other outstanding matters will be addressed at the show cause hearing.

Bonds may be set at the conclusion of trials or uncontested hearings and are usually mandatory in property cases. If the petitioner is unable to qualify for a bond, that person may not be able to serve as guardian of the property.

Post Guardianship Requirements

After a guardianship order is signed, certain reporting requirements are mandatory. Guardians of the property must file an initial inventory 60 days after the appointment. Additionally, guardians of property must comply with Estates and Trusts § 15-102 and file an annual accounting. Furthermore, guardians of the property should obtain court approval prior to payment of any compensations or commissions.

IV. 4 Specific Transactions

There are some circumstances in which a guardianship of the property appointment is unnecessary, however a specific transaction must take place regarding an individual's property. Estates and Trusts Article § 13-204 states that if there is a basis for the court assuming jurisdiction over the property of a minor or a disabled person, the court, without appointing a guardian, may authorize a specific transaction "with respect to the property, service or care arrangements of the ...person."

IV. 5 Specific Transactions

Upon Petition, the court may issue an order for emergency protective services, see Md. Code Ann., Est and Trusts § 13-709.

For all other cases, the court will consider emergency petitions regarding life threatening emergencies and/ or property/financial emergencies. The Clerk shall immediately bring an emergency petition to the attention of a Judge. The Judge may order emergency relief, schedule the matter for a conference call or direct CCMO to schedule the matter for an emergency hearing.

In addition to the petition, please include for filing a cover letter that clearly indicates an emergency exists and should be reviewed by the court immediately. Additionally CCMO should be contacted to select an agreed date.

Screening for High Conflict Cases

The court will take the following into consideration prior to assigning cases to the High Conflict Track:

1. The court will review requests for:
 - Custody evaluations
 - Best interest attorney
 - Substance abuse assessment
 - Psychological evaluation
 - Full day Master's hearing
 - Emergency/injunctive relief

2. The court will also review pleadings indicating:
 - Allegations of abuse
 - Special needs of children
 - Relocation issues
 - Adultery
 - Multiple real estate holdings
 - Self employed persons
 - Complex businesses
 - Personal property requiring appraisals

3. The court will also look at discovery issues, including:
 - Multiple experts
 - Multiple depositions
 - Motions to compel
 - Multiple subpoenas

Custody Evaluation Criteria

The court may consider the following prior to ordering a custody evaluation:

1. Allegations of the children's safety with a parent (allegations of child abuse and neglect should be reported to Howard County Department of Social Services).
2. Current domestic violence between the parents.
3. Allegations made that a parent is not able to provide care and supervision to the children, (mental health concerns).
4. Child has special needs and the parents need to have to specific skills or resources to care for the children, which may include:
 - Physical health condition
 - Mental health condition
 - Privilege attorney
 - Education or learning problem
 - Behavior or conduct problems
5. The children need a voice and there will be no child's attorney. This may include a child's alienation from a parent or a reunification situation.
6. Allegations made that a home is not suitable.
7. A parent is planning to relocate.
8. A modification is requested because of the custodial parent's inability to provide care and supervision to the child because of change in the needs of the child.
9. There is high conflict between the parents.
10. The parents' conflict is having an impact on the child's ability to function with day-to-day activities, school, friends and well-being.

Court custody evaluations will usually not be ordered for one the following reasons:

1. Alcohol or substance abuse evaluations for the parents need to be made.
2. A court-appointed psychologist is conducting an evaluation.
3. The parents are going to mediation with the belief that they can resolve custody/access.
4. An update of a previous custody evaluation is needed.
5. There is conflict between the parents but the children are not a part of the conflict and doing well.
6. The child has a mental health therapist or a child's best interest attorney.

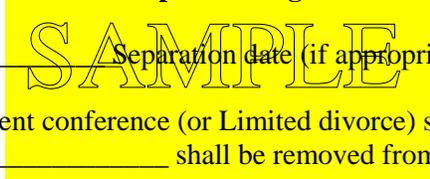
Plaintiff
vs.
Defendant

* IN THE
* CIRCUIT COURT
* FOR
* HOWARD COUNTY
* Case Number

JOINT REQUEST TO REMOVE THE
SETTLEMENT CONFERENCE(or LIMITED DIVORCE TRIAL)
FROM THE DOCKET

The parties agree that this matter was originally filed as a limited divorce and is now uncontested to all issues (or they have agreed that the *pendente lite* order will remain in full force and effect pending further Order from this Court); they further agree that they have read the statements below and have checked all numbers that apply to this case. **Parties must attach a fully executed original consent order/separation agreement to this Request.**

Grounds for divorce _____ Separation date (if appropriate) _____



- 1. _____ The settlement conference (or Limited divorce) scheduled for _____ shall be removed from the docket.
- 2. _____ Parties withdraw any prayer for a Limited Divorce.
- 3. _____ Parties withdraw any prayer for an Absolute Divorce
- 4. _____ Defendant/Plaintiff stipulates that all pending counter-complaints are dismissed upon execution of the attached consent order.
- 5. _____ Child support has been established in compliance with the child support guidelines. **If this line is checked, this joint request may not be filed unless a completed child support guidelines worksheet is attached.**

If this request is granted, parties acknowledge that any scheduled court event will be removed from the court docket and the above referenced case may be closed. If parties subsequently file a supplemental or amended complaint for absolute divorce, the moving party will be responsible for any associated court costs.

Plaintiff or Plaintiff's Attorney
(signature)

Defendant or Defendant's Attorney
(signature)

Granted: _____
Denied: _____

Plaintiff
vs.
Defendant

* IN THE
* CIRCUIT COURT
* FOR
* HOWARD COUNTY
* Case Number

SAMPLE

CONSENT ORDER

The Circuit Court for Howard County does hereby order that, on this the _____ day of _____, _____ The parties have entered into an agreement, attached hereto, which is incorporated, but not merged, into this Consent Order; and further

ORDERED that the parties have withdrawn all pending prayers for Limited Divorce Relief; and further

ORDERED that the Defendant/Plaintiff Counter-Complaint is dismissed; and further

ORDERED that the clerk’s office shall **close this case** after this order is signed. Pursuant to Md. Rule 9-202 (c) parties may amend the complaint to include a ground for divorce that by reason of the passage of sufficient time has become a ground for divorce, file in the open case number and pay any associated filing fees; and it is further

ORDERED that the settlement conference scheduled for _____ and any other scheduled court event scheduled for _____ shall be removed from the docket.

ADMINISTRATIVE JUDGE