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SEVENTH JUDICIAL CIRCUIT  
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**CONFERENCE OF CIRCUIT JUDGES**  
**COMMITTEE ON COMPLEX LITIGATION**

NOTES FROM OCTOBER 19, 2021 MEETING  
MEDICAL MALPRACTICE WORK GROUP

Time: 5:00-6:00 pm  
Place: Virtual (Zoom)  
Attendees:

Judge Beckstead, Chair, Chief Judge Wicomico County Circuit Court  
Hon. Charlene Notarcola, Clerk of Circuit Court for Cecil County  
Andrew Burnett, Esq.  
Mairi Maguire, Esq.  
Michael Nakamura, Esq.

Staff:  
Linda Fallowfield, Esq.

**Next Work Group Meeting** January 11, 2022, 4:00-5:30 pm, via zoom.

Judge Beckstead opened the meeting by asking the Complex Litigation Coordinator to give an update from the last Committee on Complex Litigation meeting held October 14, 2021. The Coordinator advised that she had informed the Committee of the WG's recommendation to set trial dates at the start of MEDMAL litigation as opposed to waiting until further in the process. She then provided the Committee response: that while one Committee member voiced his objection (as his County statistics indicate that only 8% of their cases go to trial) the Chair of the Committee said that he would inform the Conference of Circuit Judges (CCJ) of the WG's recommendation at the November 15, 2021, meeting.

The discussion then moved to the WG's recommendations regarding scheduling orders and case time standards. One WG member said that they were not able to reach a consensus between Plaintiff's Bar and the Defense Bar. Another member added that while most agreed that trial dates should be set up front, they could not get a consensus on scheduling order timelines for MEDMAL cases. The Bar WG members agreed that they would like more time to reach consensus. One member added that it would be good to find a way to direct inquiries along what efficiencies could

be brought that would improve processes rather than focusing on soliciting comments from a Plaintiff's Bar/ Defense Bar.

The discussion turned to the arbitration process. A common perception is that the arbitration process has been an impediment to getting MEDMAL cases to Circuit Court. At that point Judge Beckstead asked the Coordinator to read the mission statement of the WG as she was not sure if arbitration fit within the confines of the WG's mission. The Coordinator located the mission statement and read it aloud. She also said that she would circulate it to the WG members.

Judge Beckstead then asked the WG their thoughts on improving the arbitration process. One WG member said that arbitration tolls the statute of limitations but otherwise doesn't assist in resolving cases. Another member stated that the Plaintiff's Bar generally skips arbitration while the Defense Bar is not interested. Another WG member noted that arbitration penalizes pro se litigants because they are usually not aware of the Health Claims requirement, and as result their cases get dismissed. Judge Beckstead said she would consult with the Committee as to whether this would be an appropriate issue for the WG to consider.

Judge Beckstead said that the WG will need to wait on the CCJ response to the WG recommendation regarding trial dates before any further action should be taken by the WG. This is because any decision by the CCJ to recommend that trial dates be set at the start of MEDMAL litigation will influence the remainder of the litigation process and thereby influence the WG's work.

The discussion then shifted to case time standards. Judge Beckstead, who is a member of the Case Management Subcommittee explained the normal process for changing case time standards. She said that Maryland Court(s) are required to report whether the court has concluded their cases within time standards. If they have not, then the court is required to give a proposed plan to address the deficiencies. Judge Beckstead said that this is the normal means by which case time standards issues are identified and addressed. As there are no statutory time frames for MEDMAL cases, and no Maryland jurisdiction has identified case time standards for MEDMAL cases to be considered, it may not be appropriate for the WG to make case time standard recommendations.

Judge Beckstead said that she would consult with the Chair of the Committee on Complex Litigation to determine whether:

- 1) healthcare arbitration claims are within the WG's jurisdiction.
- 2) case time standards are within the WG's jurisdiction.

She also instructed the Coordinator to place the 2 items on the Committee's agenda for the January meeting for follow up.

In the interim, the WG considered other areas of possible focus. The Coordinator reminded the WG of the public comments received during the summer concerning possible areas of consideration for the WG. The Coordinator said she would forward them again to the WG for their consideration. The WG agreed to review the comments.

#### Action Items for Chair:

1. Consult with Chair of the Committee on Complex Litigation on:

- a. CCJ response to the WG recommendation to set trial dates at the start of MEDMAL litigation
- b. whether healthcare arbitration claims are within the WG's jurisdiction
- c. whether case time standards are within the WG's jurisdiction.

Action Items for the WG Members:

1. Review public comments on MEDMAL topics and develop recommendations.

Action Items for Staff:

- 1) Place on the agenda for the January 20, 2022, Committee on Complex Litigation meeting the following:
  - a. whether healthcare arbitration claims are within the WG's jurisdiction.
  - b. whether case time standards are within the WG's jurisdiction.
  - c. CCJ response to WG's recommendation that trial dates be set at the start of the MEDMAL litigation.