

# Bench Bar Relations and Administrative Issues Facing the Court



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National Lead Litigation Conference

November 2-3, 2017 | Orlando, FL

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# Judge Althea M. Handy

Judge in Charge of Civil  
Circuit Court for Baltimore City  
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# CIRCUIT COURT FOR BALTIMORE CITY



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# Circuit Court for Baltimore City Case Filings

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Year	Total Civil Cases*	Lead Paint Cases
2013	8553	679
2014	8238	674
2015	7186	507
2016	7123	373
2017	5134 <sup>+</sup>	307 <sup>+</sup>

\* Does not include Asbestos, Mortgage or Tax foreclosure cases.

<sup>+</sup> As of October 24, 2017.



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# Civil Differentiated Case Management Plan



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# Statement of Purpose

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- Equal treatment of all litigants by the court.
- Timely disposition consistent with the circumstances of individual case.
- Enhancement of the quality of the litigation process.
- Public confidence in the court as an institution.



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## Statement of Purpose Cont.

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Consistent with the Maryland case time standards adopted by the Judicial Council, constitutional requirements and applicable Maryland Rules, it is the goal of this plan to ensure that all civil cases, jury and non-jury, be concluded within 18 months (548 days)\* of the filing date. In order to achieve this goal, the Circuit Court is committed to resolving different categories of cases within a regular and predictable time frame warranted by the needs of those cases. For simpler cases, the warranted time frame may be shorter than 18 months.

\*Lead paint cases are excepted from the typical case flow time standard.



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# Track Designations

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A civil case may follow one of eight tracks to resolution:

1. Track 1 (Expedited).
2. Track 2 (Short Track).
3. Track 3 (Civil Standard).
4. Track 4 (Civil Custom).
5. Track 5 (Asbestos).
6. Track 6 (Lead Paint): Lead Paint cases are set for trial 21 months from the youngest plaintiff's sixth birthday. A scheduling order is issued after the first answer is filed.
7. Track 7 (Tax Sale Foreclosures).
8. Track 8 (Mortgage Forclosures).



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PRE-TRIAL SCHEDULING ORDER

IN RE:

CASE NO.:

OLD CASE NO.:

Based on the Information Report(s) filed in this case and pursuant to Md. Rule 2-504(a), it is this \_\_\_\_\_ of \_\_\_\_\_, 2016, ORDERED:

1. This case is assigned to the **TRACK 6 (LEAD PAINT TRACK)**.
2. (a) All discovery including full resolution of all discovery disputes shall be completed no later than four months before trial - \_\_\_\_\_.  
(b) Plaintiff(s) shall respond to all interrogatory requests concerning the findings and opinions of experts, and shall have any psychometric testing performed on the Plaintiff(s) and serve such testing results no later than 15 months before trial - \_\_\_\_\_.  
(c) Defendant(s) shall respond to all interrogatory requests concerning the findings and opinions of experts, and shall have any psychometric testing performed on the Plaintiff(s) and serve such testing results no later than eight months before trial - \_\_\_\_\_.  
(d) The parties shall neither introduce nor elicit, through direct examination, cross-examination or otherwise, any evidence concerning any so-called "practice effect" in psychometric testing as long as there has been a minimum of six (6) months between the psychometric testing performed by the parties.  
(e) Defendant(s) who still own a subject property shall allow the Plaintiff(s) to perform a non-destructive lead test upon the premises within 60 days of a written request provided that the request is made no later than four months prior to the discovery deadline in 2(a). The defendant(s)-owner(s) shall be permitted to attend the lead test accompanied by a consultant(s) or expert(s).  
(f) All depositions of expert witnesses shall be completed no later than four months before trial \_\_\_\_\_.  
(g) Expert designations shall include all information specified in Rule 2-402(g)(1)(A) and (B).
3. Any amended pleadings shall be filed no later than four months before trial - \_\_\_\_\_.
4. Any additional parties must be joined by no later than nine months before trial - \_\_\_\_\_.
5. Any dispositive motion(s), motion(s) to exclude expert testimony, or requests for a Frye-Reed hearing shall be filed no later than three months before trial - \_\_\_\_\_.
6. A scheduling conference pursuant to Md. Rule 2-703(c) will be held only upon written request.
7. Any party who intends to use computer-generated evidence at trial for any purpose must comply with Md. Rule 2-504.3(b).
8. (a) All parties shall appear before the court for a pre-trial and settlement conference on \_\_\_\_\_.  
(b) The parties shall file not later than five days in advance of the conference a pre-trial memorandum covering in full each of items (1) through (12) in Sec. (b) of Rule 2-504.2.  
(c) The attorneys who will actually try the case, their clients, insurance representatives, and persons with full settlement authority must attend the pre-trial conference in person. Failure to attend without prior approval from the Court may result in sanctions.
9. Any motions in limine shall be filed no later than 20 days before trial.
10. Trial of this case shall begin on \_\_\_\_\_ (21 months from date of scheduling order).
11. (a) Counsel are encouraged to amicably resolve disputes which may arise. Counsel may stipulate, subject to approval of the Court, to modify the above deadlines, except those establishing the trial date, pre-trial and settlement conference, discovery deadline, and dispositive motions deadline. Such stipulations must be in writing and submitted to the Court's approval.  
(b) This order is subject to modification, including the scheduling of the pre-trial and settlement conference and trial, upon a written motion for modification filed within 15 days of the date of this order. Thereafter, this order may be modified only upon a written motion for modification setting forth a showing of good cause that the schedule cannot reasonably be met despite the diligence of the parties seeking modification. If exigent circumstances prevent a motion in writing, an oral motion shall be made at a hearing at 1:45 p.m. on a daily basis in Room 231, Courthouse East, 111 North Calvert Street.

Counsel for all parties and any unrepresented parties must attend these hearings. An "exigent circumstance" means an unforeseen development occurring within 30 days of the pre-trial and settlement conference or trial date which prevents compliance with this order.

Failure to comply with the provisions of this Order may lead to the imposition of sanctions on the parties and/or their counsel which may include dismissal, entry of default or monetary sanctions, as may be appropriate.

Any request for accommodation under the Americans With Disabilities Act should be directed to the Administrative Office of the Circuit Court for Baltimore City at (410)396-5188 or TTY for the hearing impaired: (410)396-4930.



# Scheduling Modification Policy



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# Adhering to a Postponement Policy

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- All requests for any modification of a Pretrial Conference or Trial Date shall be made by written motion within 15 days of the initial order.
- Thereafter, except for exigent circumstance, the schedule may be modified only upon filing a written motion setting forth good cause.
- **Good Cause:** the schedule cannot reasonably be met despite the diligence of the party.



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# Examples of Good Cause

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- Trial date conflict, except as provided in Md. Rule 16-804.
- Serious illness of, or death in the family of a party counsel or necessary witness.
- Vacations scheduled prior to an assigned trial or hearing date. Request must be made within ten (10) calendars days of receiving notification.
- Counsel is in trial in another matter which carries over.
- A party did not receive notice of the hearing, through no fault of the party or counsel.



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# NOT Good Cause

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- Vacations scheduled after a trial or hearing date is set.
- Consent of counsel without compelling reason or substantive basis.
- The matter has not been previously postponed.
- Any matter known or which should have been known once trial date is firm.
- New counsel has entered an appearance or a party wishes to change counsel.
- Discovery is incomplete or was just provided.
- A party wishes to conduct further investigation.
- A party or counsel is unprepared to try the case for reasons, such as, the party's failure to cooperate with or maintain necessary contact with counsel.



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# Definitely NOT Good Cause

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**I am simply far too busy . . .**



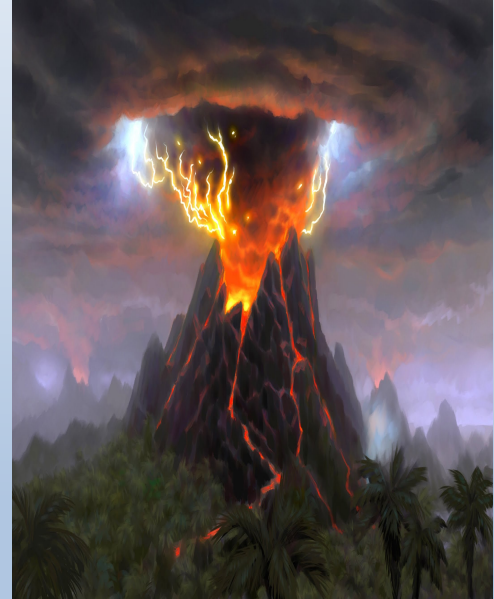
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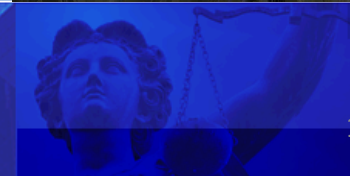
# Exigent Circumstances

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- Modification requests made for exigent circumstances will be heard on a daily basis without appointment.
- **Exigent Circumstances:** an unforeseen development occurring within 30 days of the pretrial conference or trial date which prevents compliance with schedule.



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# Example of Exigent Circumstances (Md. Rule 2-508)

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A motion for a continuance or postponement on the ground that a necessary witness is absent shall be supported by an affidavit. The affidavit shall state: (1) the intention of the affiant to call the witness at the proceeding, (2) the specific facts to which the witness is expected to testify, (3) the reasons why the matter cannot be determined with justice to the party without the evidence, (4) the facts that show that reasonable diligence has been employed to obtain the attendance of the witness, and (5) the facts that lead the affiant to conclude that the attendance or testimony of the witness can be obtained within a reasonable time. The court may examine the affiant under oath as to any of the matters stated in the affidavit and as to the information or knowledge relied upon by the affiant in determining those facts to which the witness is expected to testify. If satisfied that a sufficient showing has been made, the court shall continue or postpone the proceeding unless the opposing party elects to stipulate that the absent witness would, if present, testify to the facts stated in the affidavit, in which event the court may deny the motion.



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# Resources

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For more information on these topics please visit:

- <http://www.baltimorecitycourt.org/wp-content/uploads/2016/12/Balt-City-CCt-Civil-Division-DCM-Plan.-revision-Nov-18-2016.pdf>



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# Current Challenges



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# City Homes, Inc. Cases

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- Seventy (70) plus cases filed against City Homes, Inc.
- City Homes filed for bankruptcy on September 10, 2013.
- The bankruptcy proceedings concluded on April 14, 2017.
- Now in the process of lifting the stays on each individual case and issuing new scheduling orders for all cases.
- In addition, more than fifty (50) new cases were filed in the thirty (30) days after the bankruptcy proceedings concluded.



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Questions?



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