

IN THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR THE STATE OF FLORIDA

**IN RE: ESTABLISHMENT AND IMPLEMENTATION
OF CIVIL CASE MANAGEMENT PLAN**

**ADMINISTRATIVE
ORDER
NO. 1.13**

WHEREAS, it is in the best interest of the citizens of the Twentieth Judicial Circuit for the Court to develop innovative means to further improve the fair, predictable, efficient, and timely disposition of civil cases in the civil division of the Circuit Court;

NOW, THEREFORE, pursuant to the authority prescribed by Fla. R. Jud. Admin. 2.215 and for the purpose of promoting the efficient administration of justice within the Twentieth Judicial Circuit, it is **ORDERED** as follows:

1. There is established within the Twentieth Judicial Circuit a Civil Case Management Plan applicable to circuit civil cases, which will be administered by the Administrative Office of the Courts through direction of the Circuit Administrative Judges in each county for the implementation of enhanced case management procedures and guidelines for the timely and efficient processing of circuit civil cases and reduction in the pending backlog of civil cases.

2. The basis for the Civil Case Management Plan is attached hereto, identified in Attachment A as the “Civil Differentiated Case Management (DCM) Procedures and Backlog Reduction Plan,” and is incorporated as if fully set forth herein. The Civil Case Management Plan is to be used as a model for the purpose of establishing time standards, improving the courts ability to provide early and continuous management of civil cases as required by Fla. R. Jud. Admin. 2.545, and to promote uniformity of practice throughout the Twentieth Judicial Circuit.

3. It is intended that the Civil Case Management Plan be implemented uniformly and circuitwide within the Twentieth Judicial Circuit. However, recognizing variations as it relates to staffing and resources among the five counties within the Twentieth Judicial Circuit, the full Civil

Case Management Plan and DCM procedures will be implemented first as a pilot in Lee and Collier counties, effective January 1, 2011, with full implementation to be later expanded, as appropriate, to other counties within the Twentieth Judicial Circuit. Recognizing that Charlotte, Hendry and Glades counties may have differing needs requiring certain deviations from the model plan attached hereto, the Circuit Administrative Judge of each respective county may submit to the Chief Judge a distinct written proposed plan with procedures that, upon approval by the Chief Judge, may be implemented in the respective county.

4. Full implementation of the Civil DCM Case Management Procedures (Attachment A), including all uniform circuitwide procedures and forms, shall apply to all civil cases filed in Lee and Collier counties, effective January 1, 2011. Even though full implementation may be delayed in Charlotte, Hendry, and Glades counties, all civil time standards and goals, and the use of civil Case Managers and Magistrates to assist trial judges in the process of civil case management and backlog reduction programs, shall be effective circuitwide immediately.

5. It shall be noted that the forms included with Attachment A are intended as models, and any updates or modifications shall be posted and available for viewing on the Court's website at <http://www.ca.cjis20.org/web/main/civil.asp>. It shall be the responsibility of all parties to check the website for the most recent forms to be used in conjunction with the Civil Case Management Plan and DCM procedures.

6. The procedures and time standards set forth in the model plan, or in any other written plan approved by the Chief Judge, are intended to facilitate the timely, fair and effective resolution of civil cases while ensuring the efficient use of court resources. The procedures and time standards do not supplant any existing rule, statute, or law. Neither this Administrative Order nor the Civil Case Management Plan shall be construed as granting any rights not already provided for by rule, statute, or law.

7. To the extent that any provision of this Administrative Order may be construed as being in conflict with any rule, statute, or law, the rule, statute, or law shall prevail.

DONE AND ORDERED in chambers in Fort Myers, Lee County, Florida, this _____ day of _____, 2010.

G. Keith Cary
Chief Judge

History. – New.

ATTACHMENT A

Twentieth Judicial Circuit

**Civil Differentiated Case Management (DCM) Procedures and
Backlog Reduction Plan**

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Civil Differentiated Case Management (DCM) Procedures and Backlog Reduction Plan

I. Purpose and Goals

This Twentieth Judicial Circuit Civil Caseflow Management and Backlog Reduction Plan seeks to use innovative strategies to address the growing backlog and to implement modern differentiated caseflow management procedures in the circuit civil courts for the future to accomplish the following goals:

- Improve the courts ability as required by Fla. R. Jud. Admin. 2.545, to provide early and continuous control of case processing through use of additional Magistrate and Case Management resources, to ensure fair and prompt resolution of disputes consistent with the nature and complexity of the case.
- Identify immediate strategies for civil and foreclosure case backlog reduction plans to assist in prompt resolution of the current 31% of civil cases pending over 18 months.
- Improve the courts ability to respond to the growing number of commercial, business and other economic based civil filings having a direct impact on economic recovery in the circuit.
- Develop uniform procedures for effective early judicial intervention and management of complex cases consistent with Fla. R. Civ. P. 1.201 for managing complex litigation.
- Reduce public costs of civil litigation through early identification and expedited handling of relatively simple two-party cases to ensure prompt resolution of expedited matters through early referral to mediation or expedited hearing where appropriate.
- Improve the quality and timeliness of Management Information from the Clerk/Court MIS systems to assist judges and the court in management of civil cases and identification of cases pending beyond the Florida Supreme Court time standards set forth in Fla. R. Jud. Admin. 2.250.

II. Circuit-wide Civil and Foreclosure Backlog Reduction Goals

Each Circuit Administrative Judge, in consultation with the civil judges and the local

Bar Association, has developed a civil and foreclosure backlog reduction plan to be effective January 1, 2011.

Economic Recovery Funds provided by the state may only be used for Foreclosure backlog reduction. No funds provided under this program can be used for other civil backlog reduction efforts.

Each county backlog reduction effort may include the following components or other calendar management options as determined by the Circuit Administrative Judge in each county based on nature and volume of civil backlog:

a. Backlog Reduction Goals

1. To reduce the number of pending/backlogged Foreclosure cases by 62% circuitwide by June 30, 2011.
2. To reduce the number of economic-related circuit civil cases over 18 months of age by 10 % by June 30, 2011.

b. Civil and Foreclosure Backlog Reduction Strategies

- Expedited Foreclosure Default Dockets will be set before Senior Judges to accelerate early disposition of default judgments
- Accelerated Foreclosure Trial Dockets will be set before the Magistrate or Senior Judge – Foreclosure cases pending over 6-12 months with no activity will be set for Trial before the Foreclosure Magistrate. If not tried on that date, the case should be resolved or set for summary judgment or date certain trial;
- Case Management/Settlement Conferences in Backlogged Circuit Civil Cases– Cases may be scheduled before a Magistrate or Case Manager. Cases not disposed will result in a Case Management Order/Report to the trial judge with firm discovery cut-off dates, pretrial issues to be resolved and date matter to be ready for trial.

III. Civil DCM Case Management Plans - Time Standards & Goals

These time standards/goals are developed consistent with those established by the Florida Supreme Court pursuant to Fla. R. Jud. Admin. 2.250 and are intended to be flexible, presumptive time periods for disposition of civil cases.

Complex case time standard/goal is expanded to 24 months upon designation of a case as complex consistent with Fla. R. Civ. P. 1.201 regarding management of complex civil litigation. The local goal of 80 - 90% disposition of cases within time standards recognizes, consistent with Fla. R. Jud. Admin. 2.250(a), that there are a

portion of cases that present unique pretrial problems that may cause reasonable delay. Time standards established by case track are:

- a. Complex cases 80% disposed within 24 months
- b. Standard cases 80% disposed within 18 months
- c. Expedited cases 90% disposed within 12 months

IV. Case Track Definition and Criteria

a. Complex Case Track – (Goal 24 months)

The complex case track involves those cases with extraordinary complexity as to require or benefit from early intervention and individual judicial management. Complex cases are defined by Fla. R. Civ. P. 1.201. Cases may be designated for management on the complex track in one of the following ways:

1. Complex cases designated by motion or stipulation and approved by the court as cases meeting complex litigation criteria under Fla. R. Civ. P. 1.201(a); OR,
2. Cases identified by the court on its own motion as complex case under Fla. R. Civ. P. 1.201 due to extraordinary procedural complexity, number of parties or other case factors that will require or benefit from individual judicial management;

Presumptive Case Types- Local plans may establish presumptive complex case types for review with the assigned Judge based on local needs and filing trends.

Examples of presumptive complex case types that may be appropriate for early screening and review of case complexity are:

- **Class Action** Cases as noted on Civil Cover Sheet (Form 1.997, section V.)
- **Environmental/Toxic Tort/Mass Tort** Litigation (Form 1.997, section II)
- **Anti-Trust/Securities** Litigation
- **Malpractice** – Medical (or involving Wrongful Death)
- **Nursing home negligence**
- Other complex cases with extraordinary number of parties, experts, pretrial discovery issues

Presumptive complex case types may be designated for early screening and review by Case Managers. Multiple parties are a key factor, as referenced by the rule; however

procedures should be developed in cooperation with the Clerk's Office to identify "presumptive" case types from the Civil Case Cover Sheet.

The Case Manager should be notified of presumptive case types upon filing by the clerk so that they may be actively monitored by the Case Manager after all defendants have been served, an appearance has been entered in response to the complaint by each party or a default entered. The Case Manager will review with the assigned Judge each case by evaluating the Civil Cover Sheet, Answer(s) and Complaint to determine the need for assignment to complex track.

b. Standard Case Track – (Goal 18 months)

Standard case track involves the large majority of standard cases that normally will not require a high level of judicial case management to reach timely resolution unless unusual pretrial delay arises. Examples of general case types that would be defined as standard cases, assuming no unusual complexity are:

- Personal injury/tort
- Auto negligence
- Standard contract cases without extraordinary pretrial discovery complexity

1. Case Management Conferences in Standard Cases- a Case Management Conference will be scheduled in standard cases, to be held generally within 190 days from the date of filing the initial complaint. The parties may set the initial case management conference or the Court, in its discretion may set the date for initial case management conference. Parties may also request a case management conference by written request through the Magistrate's office.

The Initial Case Management Conference may be waived/canceled upon submission of the Counsel Stipulated (Agreed) Case Management Plan, signed by all parties, and approved by the Court. Forms will be available on the Court's website.

2. Stipulated (Agreed) Case Management Plan – A Stipulated (Agreed) Case Management Plan may be developed jointly by counsel for the parties as well as any parties appearing pro se and filed within 150 days from the filing date of the initial complaint. This will allow counsel and pro se parties to consult early in the case, devise an agreed upon case plan and waive an initial case management conference, if the case plan is approved by the Court.

The use of a Stipulated (Agreed) Case Management Plan early in the case (within 150 days) is intended to allow all parties, pro se or through counsel, to set a reasonable case plan targeting dates for discovery, expert reports and referral to alternative dispute resolution (ADR), without court intervention, provided that the general time parameters are set and adhered to.

c. Expedited Case Track - (Goal 12 months)

Expedited cases are those cases normally requiring little judicial intervention with relatively simple procedural and legal issues that can be resolved promptly by early referral to mediation, ADR or expedited hearing.

Expedited cases may include:

- Contested Residential and Commercial Foreclosure
- Simple, two-party Collection/Indebtedness cases under \$50,000.00
- Non Jury cases

Contested cases identified as expedited may be set directly by counsel or pro-se litigant for mediation within 270 days, or as practical, as part of the Stipulated (Agreed) Case Management Plan.

Foreclosure cases will not require a Stipulated (Agreed) Case Management Plan and would continue to be set on an expedited hearing docket, possibly before a Senior Judge.

NOTE: Effective July 15, 2010, Homestead Residential Mortgage Foreclosure cases will be handled through a separate managed mediation/conciliation process developed per Florida Supreme Court Administrative Order No. SC09-54 and local Administrative Order No. 1.12.

V. Civil DCM Case Management Procedures

a. Screening and Assignment to Case Tracks

1. Civil Cover Sheet (Fla. R. Civ. P. Form 1.997)
To be filed with the Clerk by the plaintiff along with the initial complaint. After review, data entry clerk will forward Cover Sheet/Complaint/Answer for cases that meet presumptive complex criteria to Case Manager.
2. Case Review and Screening by Case Manager
After responsive pleadings are filed, cases meeting presumptive complex case criteria will be reviewed by a Case Manager for recommended track decision.

Potentially complex cases will be reviewed with, and approved by, the assigned trial judge for assignment to the appropriate case track. (Upon complex case designation, case management procedures will follow Section V.b. of this document).

3. Standing Order for Case Management/Stipulated (Agreed) Case Management Plan

Plaintiff will attach the Standing Order for Case Management and Request for Stipulated Case Management Plan with the initial complaint for service on all parties (with the exception of Homesteaded or defaulted Foreclosure actions).

b. Case Management Procedures – Complex Cases

1. Designation to the complex track

Cases may be designated to the complex track as provided under Fla. R. Civ. P. 1.201 by:

- Motion or Stipulation by Parties

Motion or stipulation for designation as a complex case under Fla. R. Civ. P. 1.201 must be filed with the Clerk of Court. The Clerk will provide a copy to the Case Manager in order to assist the judge in case preparation for Initial Case Management Conference or motion hearing;

- On Court's Motion

Case Manager may recommend designation as a complex case to trial judge after receipt of responsive pleadings and review of complaint, answer and civil case cover sheet in presumptive case types.

2. Initial Case Management Conference

Set by the assigned trial judge to occur within 60 days of designation as a complex case with assigned Judge or Magistrate in selected cases;

3. Joint Statement of Parties

At least 20 days prior to the date of the initial case management conference, counsel for the parties as well as any parties appearing pro se shall confer and prepare a joint statement outlining a discovery plan, which shall be filed with the clerk of court no later than 14 days before the conference under Fla. R. Civ. P. 1.201;

4. Case Management Order

To be consistent with the uniform circuit Case Management Order resulting from the conference which provides:

- Pretrial Discovery/Case scheduling plan

- Plan for referral to ADR
- Next Case Management Conference Date
- Date for next Pretrial Conference (not less than 90 days prior to the trial date)
- Estimated date for trial/readiness date within 24 months

5. Interim Case Management Conference or Pretrial Conference

At the trial judge’s discretion, an interim case management conference or Pretrial Conference may be set with the Judge or Magistrate to facilitate resolution of pretrial management or discovery matters, resolve outstanding issues and set a firm trial date.

6. Trial

Trial date set by judge at the Final Case Management Conference.

c. Case Management Procedures – Standard/Expedited Cases

1. Standing Order for Case Management/Stipulated (Agreed) Case Management Plan- The Plaintiff will attach the Standing Order for Case Management and Request for Stipulated (Agreed) Case Management Plan with the initial complaint for service on all parties (with exception of Homesteaded and Defaulted Foreclosure actions).

2. Case Management Conference

In standard cases, counsel for the parties as well as any parties appearing pro se may waive the initial case management conference by filing a Stipulated (Agreed) Case Management Plan, approved by the Court, within 150 from the date of filing the initial complaint.

In cases where all of the parties, pro se or through counsel, do not file a Stipulated (Agreed) Case Management Plan within 150 days, or in cases where the plan has been filed but not approved by the Court, all parties will be required to attend an initial Case Management Conference as scheduled by the Court to establish a case management/scheduling plan.

3. Presumptive case scheduling plan/time goals

Stipulated (Agreed) Case Management Plans may be flexible and based upon individual case factors, but should be consistent with reasonable and presumptive pretrial discovery and ADR time goals as follows:

<u>Case Track</u>	<u>Completion Discovery and ADR</u>	<u>Trial/Disposition</u>
Standard	450 days	540 days
Expedited	270 days	365 days