

## What to Expect at Your Montgomery County, Maryland Family Law Scheduling Conference

Janet has filed her Complaint for Divorce, Custody, Alimony, Child Support and Property Division, and wonders what will happen next? Her Husband, Peter, will need to be served with the papers by someone other than Janet who is over 18 years of age. Once Peter is served, he will have a certain period of time to file an Answer to the Complaint, as well as a Counter-Complaint. A Scheduling Conference is set by the Court when an Answer or an Affidavit of Service is filed.

The Scheduling Conference may be the first of many court dates which Janet and Peter will have before the trial date on their family law case. The Scheduling Conference is the Court's way to begin tracking their divorce, property, custody and/or child support case, and to schedule the steps in their case's development.

Typically, a Master will conduct the Scheduling Conference. At the Scheduling Conference, the Master may order Janet and Peter to participate in one or more programs offered by or through the Circuit Court. The Scheduling Conference provides opportunities for Janet and Peter to settle their case without having a fully contested trial.

### **What Services Might Be Ordered at the Scheduling Conference?**

***Co-Parenting Skills Enhancement*** will be ordered, where appropriate, for parties involved in family litigation. The litigants will choose two sessions for attendance at a reasonably convenient time within the framework specified by the Court. The goals of Co-Parenting Skills Enhancement sessions include the education of parents and the provision of necessary tools to remove the children from the adult conflict, in order to encourage a healthy adjustment for children whose parents no longer live together.

***Custody/Visitation Mediation*** will be offered throughout the course of the family contact with the Court. Initially, the parties will be ordered to attend two custody mediation sessions. The goal of mediation is to develop an agreement for the care and custody of the children, or to create a visitation plan, if this is an area of controversy. An agreement reached through mediation may be incorporated into an Order issued by the Court. Mediation sessions are confidential. Parties attend custody mediation without counsel. However, it is important to meet with your attorney prior to mediation so you are prepared to reach a reasonable resolution.

***Child Custody Assessments*** are limited assessments made by the Office of Court Evaluators. The Court may order the parties to meet with the Court Evaluator to obtain background information, review the concerns of each parent, assess the needs of the child(ren) and determine the extent to which the

child(ren) have been involved in the conflict. This assessment usually involves four sessions. The parents are encouraged to note areas of agreement such as those related to visitation schedules, holidays, and decision-making with regard to medical and educational preferences. The Evaluator will present an oral review at a conference with the Master, parties and counsel, presenting any agreement reached, outlining areas of disagreement, and making recommendations as to the best interests of the child(ren).

**Custody/Visitation Evaluation** is a more in depth evaluation of the conflicted family requiring home visits, school reports, submission of therapy/ medical reports and collateral contacts in the community. The need for the more extensive evaluation may develop from the Custody Assessment or may be ordered by the Judge or Master in lieu of the Assessment, based upon known circumstances. An Order might also be entered directing the parties to contract for psychological testing as an aid in determining the best interests of the child(ren).

**Facilitators** are practicing attorneys who offer immediate mediation to litigants from the Master's hearing room. Facilitators are chosen from a list of experienced counsel approved by the County Administrative Judge and the Family Division Masters.

When you appear for your Scheduling Conference, if you have a disagreement about *pendente lite* issues (i.e., issues you would like resolved at least temporarily until the day of your trial) the Master may ask you to meet with a facilitator that same day in the courthouse. The facilitator will give you practical advice concerning what you may expect if your case goes to trial. He or she will help you reach a settlement the day of your Scheduling Conference.

If you reach an agreement on *pendente lite* or other issues, you may be able to avoid the time and expense of returning to court for a *pendente lite* or other hearing. Any agreement you reach with the help of a Facilitator can be incorporated into an enforceable court Order.

**Alternative Dispute Resolution** (ADR) is available to parties to settle property issues. ADR is conducted by practicing attorneys with substantial expertise in the domestic field. Selection of the ADR mediator is from an approved list designated by the County Administrative Judge and maintained by the Differentiated Case Manager. Parties attend ADR with counsel.

**Best Interest Attorney** may be appointed by the Court to specifically represent the best interests of the child(ren) of the parties. In most cases, the cost of this representation will be borne by the litigants.

**Child Privilege Attorney** may be appointed as a neutral guardian to act for a child in waiving or asserting the psychiatrist-patient privilege. This type of appointment is frequently referred to as a Nagle v. Hooks appointment and derives its name from the Maryland case requiring this representation to protect

the child's best interests. In most cases, the cost of this representation will be borne by the litigants.

**Psychological Evaluations** are conducted by private practitioners in the community and the expense of the testing and evaluation is borne by the parties. Participation may be ordered by the Court upon motion of the opposing party or upon recommendation of the staff of the Office of Court Evaluations. Psychological evaluations may be sought when it becomes apparent during the Custody Assessment that the Court will benefit from the more in-depth Custody/ Visitation Evaluation with psychological testing as an adjunct to arriving at a decision in the best interests of the child(ren). In most cases, the cost of this representation will be borne by the litigants.

**Psychological Evaluations and/or Therapy** may be ordered by the Court during the pendency of a case when there is a demonstrated immediate and significant concern. Ongoing therapy may be ordered as part of the ultimate decision in a contested custody/visitation case. In most cases, the cost of this representation will be borne by the litigants.

**Psychological/Custody Evaluations** are conducted by privately retained psychologists (or psychiatrists) who conduct relevant testing to assist in determination of custody issues in the best interests of the child(ren). Referrals may be made during initial case proceedings or with regard to a change of custody or modification of visitation issues. In most cases, the cost of this representation will be borne by the litigants.

**Private Custody Evaluations** may be permitted by the Court under certain circumstances. If the parties demonstrate a need, a qualified private practitioner, possessing at least the designation of LCSW (Licensed Certified Social Worker), may be permitted to provide a suitable custody evaluation. In most cases, the cost of this representation will be borne by the litigants.

**Drug and Alcohol Testing** or the Urine Monitoring Program is available when an allegation of substance abuse arises or may be requested as part of a Custody/Visitation Evaluation. A one time testing or referral for twice weekly monitoring can be ordered, by consent, and counsel or the parties will be notified of all results.

## **What are the Different Tracks a Case Can be Assigned?**

### Track 0

Track 0 is the fast track for uncontested cases. In this track the complaint is filed simultaneously with an Answer, Joint Request to Schedule an Uncontested Divorce Hearing, and Child Support Guidelines, where appropriate.

The Family Department Screener/Clerk reviews the pleadings and docket the case. The computer automatically schedules the case for a 10-minute or 30-minute hearing. The length of the hearing is dependent upon whether all items are checked on the Joint Hearing Request.

### Track 1

All Family Law cases in which a summons is issued begin as Track 1. The track designation will be confirmed or changed at the Scheduling Conference.

The Family Division Master conducts the Scheduling Hearing, confirms or changes track, and if the case remains Track 1, sets the case for an Uncontested Divorce Hearing.

### Track 2

Track 2 cases are those that have no contested physical custody issues. They are cases involving any or all of the following issues: visitation, legal custody, alimony, child support, earnings withholding, limited property, pension, costs, attorney fees, and divorce.

### Track 3

Track 3 cases involve physical custody and any or all of the following issues: visitation, alimony, child support, earnings withholding, property, pension, costs and attorney fees, divorce. In a Track 3 case, a custody hearing will be held prior to a hearing on all other issues.

### Track 4

Track 4 cases are those cases that have complex issues such as extensive property holdings, complicated business valuations, significant assets held in various forms, pensions, alimony and other support issues, as well as custody, visitation and divorce. Track 4 cases are assigned to a Family Division Judge who will conduct all hearings and consider additional services and/or changes or adjustments in timing of events through the completion of the case.