

# VIRGINIA BEACH

## CIRCUIT COURT



## PROCEDURES FOR CIVIL ACTIONS

Revised April 26, 2018

## CIRCUIT COURT FORMS

### Commencement of Civil Action by Filing in a complaint in the Virginia Beach Circuit Court or a Civil Case Appealed from the General District Court

**Applicability.** These procedures apply to civil cases appealed from the general district court and to civil actions commenced in the circuit court. These procedures do not apply to:

- (i) Divorce suits (custody, visitation, support, equitable distribution issues and annulments). There is a separate procedure manual for divorce cases.
- (ii) Appeals from the juvenile and domestic relations district court (an initial trial date is set by the Court and a notice of trial date issued by the circuit court clerk's office).

1. When filing the civil action in the circuit court, counsel shall attach a completed [Civil Cover Sheet](#) to the initial pleading filed.
2. Service is not required at the time the civil action is filed. However, if the defendant is not served within one year from the date the case is initially filed, the Clerk may issue a Notice of Dismissal pursuant to Virginia Code § 8.01-335 (D).
3. In certain civil cases, the judge trying the case may require the recording verbatim of the evidence and incidents of trial by a court reporter or by a digital court recording device. In a civil case filed directly in the circuit court, the services of a court reporter to appear and record the trial proceedings shall be arranged for by the plaintiff unless otherwise arranged by agreement of all counsel or directed by the court. In civil cases from the general district court or the juvenile and domestic relations district court, the trial judge may provide for the recording verbatim of the evidence and incidents of trial by a digital court recording device. In cases in which the trial is recorded by a digital court recording device the cost to prepare a transcript of the record shall be paid for by the party ordering the transcript.
4. Cases are rarely assigned to a judge because of our docketing system. To seek assignment of the case, the following requirements apply: (i) the case must be complex and require pretrial rulings, (ii) all counsel must agree and join in the request and (iii) the request must be directed to the chief judge. Cases will not be assigned simply because counsel will be briefing a particular issue and want their briefs reviewed prior to the hearing. Exception: The Court shall automatically assign a judge in condemnation and medical malpractice cases.
5. **Orders.** On any order submitted by counsel in which the court ruled on such matter the name of the trial/hearing judge shall be typed below the signature line. This will ensure the Judge who hear or tried the case gets the order for entry.

## **Scheduling Case for Trial**

### Civil Action Commenced by Filing a Complaint in the Circuit Court:

Pursuant to Supreme Court Rule 1:20, the Court has adopted the following procedures for scheduling a civil case for trial:

1. Submit the **PRAECIPE IN A CIVIL ACTION** for the setting of a trial date at docket call. Docket call is held on the first Monday of each month unless a Holiday then on Tuesday.
2. All counsel may agree to a trial date and secure approval of the court by a telephone call to the judges' office at 757-385-4502. Once the court has approved the trial date by telephone, counsel must complete and file the **CERTIFICATE OF SETTING AGREED TRIAL DATE OUTSIDE OF DOCKET CALL**.

### Civil Case Appealed from the General District Court:

The clerk's office shall issue a *Notice of Docket Call* to all attorneys of record and to pro se parties upon the filing of the case papers from the general district court.

## **Docket Call**

1. If the case is an appeal from the general district court, the clerk of court will issue a (i) Notice of Docket Call 30-60 days from the date the case papers are filed in circuit court and (ii) Notice of Trial Date after docket call to all parties or counsel. If a pro se party is unable to appear at docket call, such pro se party may submit, prior to docket call, in writing to the court, any void or agreed dates. The Court's praecipe cannot be passed and a trial date shall be set unless a final order has been entered or is submitted at docket call.
2. If counsel has filed the praecipe and a counsel or pro se party objects to the scheduling of a trial date, such party must notice the court and all counsel of record and any pro se party for a hearing prior to docket call.
3. When a party has submitted a praecipe in a civil action commenced in this Court, the party, their counsel, or authorized representative must appear at docket call otherwise the praecipe may be passed without setting a trial date.
4. After docket call, counsel who filed the praecipe shall provide notice of the trial date to all other counsel of record and any pro se party. If the party filing the praecipe is pro se, the clerk of court shall issue a Notice of Trial Date after docket call to all parties or counsel.

## **Filing the Uniform Pretrial Scheduling Order**

Counsel may submit for entry by the court the **CIVIL PRETRIAL SCHEDULING ORDER**. EXCEPTION: A scheduling order is not required in a civil appeal case. The provisions of Supreme Court Rule 1:18 shall apply.

## Pretrial Conference

A pretrial conference is only scheduled upon request of counsel of record, or the court on its own discretion. If ordered, the pretrial conference must be held 7 to 14 days prior to the trial date and all counsel must attend in person or via teleconference. To schedule a final pretrial conference, counsel must contact the duty judge's docket clerk at 385-4502.

## Continuance of Trial Date

1. A continuance of the trial date will only be for good cause shown and must be approved by the court.
2. To request an agreed continuance:

Counsel must secure approval of a new trial date by completing the **REQUEST FOR CONTINUANCE OF TRIAL DATE ORDER** and submit such order by electronic transmission to the court for approval.

- Prior to submitting such order to the court, counsel must contact by telephone a judicial assistant at 385-4502 to determine available court dates.
- Once the judicial assistant has approved an agreed trial date, counsel must immediately submit such order by electronic transmission to the court.
- The duty judge will review the request. After the duty judge has granted or refused the continuance, the duty judge's judicial assistant will promptly send a copy of such order to all counsel.

3. To request a continuance that is not by agreement:

Counsel may call the duty judge's judicial assistant at 385-4501 option 2 to schedule a hearing on the duty judge docket or provide notice to all parties for a hearing on the Friday Motion Docket.

- If hearing before the duty judge, counsel shall submit to the court, by electronic transmission, the **REQUEST FOR CONTINUANCE OF TRIAL DATE ORDER** on the day of the scheduled hearing.
- If hearing is set on the Friday Motion Docket, counsel shall submit to the court, in person, the **REQUEST FOR CONTINUANCE OF TRIAL DATE ORDER** on the day of the scheduled hearing.

## Judicial Settlement Conference

1. The court may, upon request of counsel, or on its own discretion, refer the case to a retired judge from a list provided by the Supreme Court for a settlement conference at no cost to the parties.
2. Counsel shall be responsible for:
  - Selecting a settlement judge from the List of Judicial Settlement Conference Judges under "Directories" on the Supreme Court's Internet site at: <http://www.courts.state.va.us>. After selecting a judge, contact the Duty Judge's Judicial Assistant at 385-4501 option 2 for the judge's contact information.

- Confirming with the settlement judge that he or she is available to take the conference and making arrangements for the hearing date, time and location with the settlement judge.
- Preparing and submitting to the court the **VIRGINIA BEACH CIRCUIT COURT ORDER OF DESIGNATION AND REFERRAL TO JUDICIAL SETTLEMENT CONFERENCE**.
- Providing any court documents and other correspondence required by the settlement judge.

### **Jury Trial**

1. See Supreme Court Rules 3:21 and 3:22 and applicable statutes.
2. If jurors are summoned on the trial date and the case is not heard because of a reason the court finds should have been addressed with the court prior to the trial date, the court may assess the costs of such jury. Virginia Code § 17.1-626 in its concluding sentence grants the Court the discretion to assess such costs the Court deems reasonable.
3. If a pro se party files a written request for a jury, the Court may set a pre-trial conference as provided in Rule 1:19.

### **Settlement or Non-Suit of case before Trial Date**

1. If a non-suit is taken, counsel shall deliver the appropriate final order to the Clerk on or before the trial date.
2. If the case is settled and counsel is not able to submit a final order by the scheduled trial date, counsel shall provide a letter confirming the case has settled to the clerk of this court (facsimile number is 385-1304) for docket purposes and shall deliver a final order within 30 days. Upon receiving such letter confirming the case has settled, the clerk shall set a 30 day review to determine if a final order has been submitted. If no order has been submitted and there are no pending motions, the court may enter an order removing the case from the pending docket for case management purposes. This order is not intended as a substitute or precludes the entry of a final order subsequently submitted by counsel. If such an order is subsequently entered, the Clerk shall update the case management system accordingly.

### **Trial**

1. Counsel to have complied with all requirements of the pretrial scheduling order if applicable.
2. Counsel shall deliver an order reflecting the court's ruling within 30 days of the trial date, or promptly schedule any motion to rehear or reconsideration.
3. **NOTICE TO CORPORATIONS, LLC'S, PARTNERSHIPS, AND SIMILAR ENTITIES: SUCH ENTITIES** may not be represented in the circuit court by its officers, employees or agents who are not duly authorized or licensed to practice law in Virginia. Such entities can be represented only by a lawyer in this court, with respect to matters involving legal conclusions, examination of witnesses or preparation of briefs or pleadings.

### **Motion for Reconsideration**

1. Motions for reconsideration must be filed with the Court along with a cover letter asking the Court to review the motion and stating whether a hearing and oral argument is requested. Pursuant to Supreme Court Rule 4:15(d), a hearing on a motion for reconsideration may not be scheduled on the Court's Motion or Duty Judge docket unless the Court requests the parties to schedule the hearing.
2. Upon reviewing such motion, the Court shall (i) enter an order denying or granting such motion, or (ii) advise counsel to schedule hearing and oral argument.