

VIRGINIA BEACH CIRCUIT COURT MOTION DOCKET PROCEDURES

Revised: July 15, 2019

Overview

- A. The Virginia Beach Circuit Court has two dockets for hearing civil case motions: (1) the Friday Motion Docket and (2) the Duty Judge Docket.
- B. Motions practice shall comply with Rule 4:15 of the Rules of the Supreme Court of Virginia, except as otherwise set forth below.
- C. The court, in the judge's discretion, may postpone any hearing, defer any ruling on the motion, and may require the filing of briefs in support or in opposition to the motion.
- D. You may request that a motion be heard by a specific judge only when the motion (i) is for entry of an order setting out a specific ruling previously made by that Judge, (ii) is in a case that has been assigned to that Judge by the Chief Judge, (iii) is in a case that the Judge has advised counsel that all future motions in the case or that specific motion shall be placed on that Judge's docket or (iv) concerns a demurrer in a case where that Judge previously granted a demurrer in favor of the movant.
- E. A proposed order should be brought to the hearing in order to avoid multiple hearings on the same motion.
- F. Counsel must appear in person. Appearance by telephone/teleconference is only permitted with prior approval of the court.

1.0 General Rules for Friday Motion Docket

- A. The Friday Motion Docket is for motions that will take no more than 30 minutes unless otherwise extended by the presiding judge. In the judge's discretion, any hearing of the motion that exceeds 30 minutes may be postponed and rescheduled.
- B. All hearings are scheduled for 9:30 a.m. and are heard as soon as possible thereafter.
- C. Motions may be set on this docket by submitting a written notice and motion to the clerk's office no later than the Monday before the Friday selected for hearing. A certificate of service is required in accordance with Rule 1:12 of the Rules of the Supreme Court of Virginia.
- D. No motion for which briefs or memoranda are filed can be set on the Friday Motion Docket.

2.0 General Rules for Duty Judge Docket

- A. The Duty Judge Docket is available Monday through Friday from 2:15 p.m. to 5:00 p.m. for matters that will take no longer than 1 hour (note: on Fridays, approved Uncontested Divorce hearings may be set at 10:00, and approved Friday Contested Divorce Docket cases may be set at 11:00 and 12:00), as well as other matters required to be set on that docket as set forth below.
- B. Matters are set on a specific date and time and must be by agreement of all counsel or pro se party, if any, to the case unless an ex parte hearing is allowed by statute or the judge.

- C. Motions on the Duty Judge Motion Docket shall be set as follows: Electronically by going to the “Online Motion Docket” page on the circuit court’s website at www.vbgov.com/courts (Click on “Circuit Court” on the left of the main page; then “Motion Docket”). On the right side of the Motion Docket page you will see the “Online Motion Docket” and the *Duty Judge Hearing Request Form* under Related Information. This online motion docket calendar will show all the appointments that are currently scheduled. You will use this calendar to determine and coordinate available dates and times with the parties prior to scheduling. After determining available date and time, complete the *Duty Judge Hearing Request Form* and submit such completed *Duty Judge Hearing Request Form* via email to (Dutyjudg@vbgov.com).
- The *Duty Judge Hearing Request Form* will be reviewed upon receipt. If in compliance with the Court’s procedures, you will receive an email confirmation (a “Duty Judge Hearing Request Response”) and the judicial assistant will print a copy of the *Duty Judge Hearing Request Form* for the case file. If there are any problems or issues with your request, you will be notified accordingly.
- D. Any motion accompanied with a written brief or memorandum of law must be set on the Duty Judge Docket and shall be filed and served at least 14 days before the hearing, with any brief or memorandum in opposition filed and served at least 7 days before the hearing, regardless of page length, unless otherwise specified by the court. See Rule 4:15 (c) of the Rules of the Supreme Court of Virginia. Since the hearing date must be by agreement, counsel are expected to confer with each other to work out a briefing schedule to allow time for any response briefs to meet this deadline. Counsel may want to consider completing briefing before seeking to set the matter for hearing.
- E. A purpose of the Duty Judge Docket is for the court to review the motion in advance of the hearing. Therefore, all matters placed on the duty judge docket must include a written motion that sufficiently identifies the issues or basis of the motion and/or the relief sought, and must be filed 5 business days prior to the scheduled hearing date. Exceptions: Infant Settlements; Wrongful Death Settlements; Pretrial Conferences; Petition to Celebrate Rites of Marriage; Uncontested Guardian/Conservator Appointments and Petitions to Transfer Guardian/Conservatorships; Judicial Authorization for Medical Treatment; Contested Continuance Motions; Emergency Injunctions or other emergency hearings; Attachments; and Name Changes.
- F. The Court will only hear those motions specified when the matter is initially set for hearing on the duty judge docket.
- G. The Chief Judge may approve a 2-hour Pendente Lite or custody hearing by counsel submitting a written request directly to the Chief Judge. Any other contested domestic relations matter that will take no more than 2 hours may be set upon approval of a judge. Counsel and the parties are required to appear ½ hour before the commencement of the hearing to confer and discuss settlement. Failure to appear and confer before the hearing may result in the Court continuing the hearing.
- H. The scheduling of an emergency custody hearing must be approved by a judge by the following procedure: (i) appear before a judge for approval by submitting a notice and motion for Friday Motion Docket or (ii) by filing a pleading setting forth the motion and grounds and requesting an ex parte review by a judge. A certificate of service to all parties or their counsel of record and any guardian *ad litem* is required in accordance with Supreme Court Rules 1:12 and 4:15(b).

3.0 Motions that must be set on the Duty Judge Docket:

1. Any hearing that will take more than 30 minutes.
2. Motions with briefs or memorandum filed by any party.
3. Wrongful Death Settlements (All counsel of record and the parties in interest or their representative must be present).
4. Infant Settlements (All counsel of record and the infant (unless excused) must be present).
5. Petition to Celebrate the Rites of Marriage (15 minute time slot).
6. Administrative Process Act Appeal, Appeal of an Agency Decision and Grievability Determinations. NOTE: If the hearing will take more than 1 hour, it must be set on the trial docket).
7. Uncontested Guardian/Conservator appointments and Petitions to Transfer Guardian/Conservatorships (15 minute time slot and no more than 3 per day may be set).
8. Judicial Authorization for Medical Treatment.
9. Pre-trial Conferences in Contested Divorces (limited to 30 minutes and the parties and counsel must attend the pretrial conference in person).
10. Petition for Sterilization.
11. Temporary injunction under § 8.01-624. If an ex parte hearing is requested, the Duty Judge must first determine if the matter will be allowed to be set without notice to the adverse party.
12. Ex parte Detinue hearing under § 8.01-114.
13. Ex parte hearing for issuance of an attachment under § 8.01-540.
14. Writ of Mandamus.
15. Name Change request that the record be sealed (Chief Judge's Duty Docket only).

4.0 Motions to be set on Friday Motion Docket:

1. Motion for Default Judgment
2. Pendente lite (temporary) visitation and support hearings.
3. Claim of Exemption from a Levy or Garnishment.
4. Name Change upon a written Motion for an ex parte hearing for a judge to consider a waiver of the notice requirement involving the name change of a minor.
5. Show Cause against Distribution of an Estate.

5.0 Motions that may be set on either the FRIDAY MOTION DOCKET (30 minutes or less) or the DUTY JUDGE DOCKET (no more than 1 hour) subject to the above general rules specific to that docket or in the judge's discretion:

1. Discovery issues.
2. Contested Continuance Motions (All counsel must appear or arrange to be present by a telephone conference call).
3. Notice of Entry of a Final Decree if already heard by judge or commissioner. Note: Entry of final divorce decree may only be set on the duty judge docket *after* notification to counsel from a law clerk or approved by judge.
4. Petition for Declaration of Assumed Death.
5. Petition for Show Cause.

6. Motion to Consolidate (If all parties agree, submit an agreed order in lieu of a hearing).
7. Motion for Distribution of funds out of an estate (Exception: a Show Cause against distribution of funds out of estate must be set on Friday Motion Docket).
8. Motion for Aid and Direction in Disposing of Assets.
9. Motion to Edit Depositions.
10. Motion in Limine.
11. Motion to Dismiss, Quash, Stay or a Demurrer.
12. Motion to Withdraw as Counsel.
13. Motion for Plea in Bar.
14. Motion for Statute of Limitations.
15. Motion for Sanctions.
16. Motion for Summary Judgment.
17. Motion to Amend Pleading.
18. Motion to Crave Oyer.
19. Motion for Sovereign Immunity.
20. Motion for Bill of Particulars.
21. Motion to Increase Ad Damnum.
22. Name change of a minor if a parent's consent is missing but the matter is not contested.
23. An adult name change when the law clerk sends a notice advising the applicant that he/she must schedule a hearing because the name on the ID provided with the application does not match the applicant's current legal name.
24. Exceptions to Commissioner's Report (Contact judicial assistant of the judge assigned to the exceptions).

6.0 Contested Motions that must be set on the court's trial docket unless approved by a judge to be set on the duty judge docket:

1. Contested Name Change of a Minor.
2. Contested Guardian/Conservator Appointment.
3. Contested Motion for Custody pendente lite.
4. Contested Adoptions including those that require proof of abandonment.

7.0 Motions 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.