

FIRST JUDICIAL CIRCUIT OF VIRGINIA



RULES

OF THE

CHESAPEAKE CIRCUIT

COURT

2006

Last Revised: June 7, 2018

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Order of Adoption

In accordance with Rule 1:15 of the Rules of the Supreme Court of Virginia, a copy of these orders with the dates of entry shall be posted in the Clerk's Office, filed with the Executive Secretary of the Supreme Court of Virginia, and made available to attorneys practicing before this court. All prior rules of this Court not contained herein are revoked.

[Entered: July 3, 2006]

Rule 1 — Terms of Court

There shall be twelve (12) terms of this Court, which shall commence on the first Tuesday of each month. The civil docket shall be called at 10:00 A.M. and the criminal docket at 2:00 P.M. on the first day of the term. In the event the first day of the term falls on a holiday or an election day, the docket shall be called on the following Court day.

[Entered: July 3, 2006]

Rule 2 — Holidays

In accordance with the provisions of Virginia Code § 2.2-3300, enumerating the legal holidays observed in the Commonwealth of Virginia, the Clerk's Office of the Circuit Court of the City of Chesapeake shall be closed on:

January 1 – New Year's Day;
The Friday preceding the third Monday in January – Lee/Jackson Day;
The third Monday in January – Martin Luther King, Jr. Day;
The third Monday in February – George Washington Day;
The last Monday in May – Memorial Day;
July 4th – Independence Day;
The first Monday in September – Labor Day
The second Monday in October – Columbus Day & Yorktown Victory Day
November 11th – Veterans Day;
The fourth Thursday in November and the Friday next following – Thanksgiving Day;
and
December 25 – Christmas Day;

or, whenever any of such days fall on Saturday, the Friday next preceding such day, or whenever any of such days fall on Sunday, the Monday next following such day; and any day so appointed by the Governor of this Commonwealth or the President of the United States, shall be a legal holiday as to the transaction of all business or until modified by further order of this Court.

[Entered: July 3, 2006]

Rule 3 — Cover Sheets for Filing Civil Actions

Effective January 1, 2006, all civil actions, when filed, must be accompanied by a completed Cover Sheet for Filing Civil Actions. Cover Sheets for Filing Civil Actions are available in the Office of the Clerk of Circuit Court.

[Entered: July 3, 2006]

Rule 4 — Procedure for Calling of the Docket

The following procedure for the calling of the docket will become effective with the July 2006 docket call:

Only civil actions at issue will be called. Any party who desires to have an action or cause set for trial shall notify the Clerk of Court by praecipe as provided by Rule 1:15(b) of the Rules of the Supreme Court of Virginia. Notice must be received by the Clerk no later than the Thursday preceding the docket call at which the case is to be set. The party requesting action by the Clerk shall serve a copy of the praecipe on each counsel of record in the manner provided by Rule 1:12 of the Rules of Supreme Court of Virginia. Only those cases on which the Clerk has received a praecipe will be called and they will be set for trial.

[Entered: July 3, 2006]

Rule 5 — Trials by Jury

To promote the convenient and efficient use of this Courthouse and Office of the Clerk of Circuit Court and the orderly management of the Court docket, and in an effort to attain a more efficient administration of justice by avoiding undue hardships to citizens serving as jurors and to avoid needless expense, the following procedures will become effective beginning April 1, 2009:

- (1) In any case in which the parties are entitled to a jury, unless one of the parties demands that the case be tried by a jury, the whole matter of law and fact may be heard and determined and judgment given by the Court. Failure to make such demand shall constitute a waiver of trial by jury;
- (2) A jury demand shall be in writing and delivered to the Clerk of Court no less than thirty days before the day of trial in civil cases and no less than five days before the day of trial in criminal cases. A copy of such written request shall be sent to the opposing side. No party may rely upon the opposing party's demand;
- (3) Any party, having demanded a trial by jury, may waive a jury by giving notice to said Clerk, the Jury Administrator, and the opposing side. In the event the case is settled or is not to be tried, notice shall be given to said Clerk, the Jury Administrator, and the opposing side. If any such notice is not given, but could have been given prior to the day of trial, the cost of the jury, if incurred, will be assessed against a defendant in a criminal case in accordance with Virginia Code § 19.2-336, or in a civil case may be charged against the party or parties who have failed to notify said Clerk and Jury Administrator.

[Entered: April 7, 2009]

Rule 6 — Divorce, Annulment, Affirmance and Separate Maintenance Causes

(A) Uncontested Divorces: Both parties may elect to have the case heard by a divorce commissioner; or a party may request by motion that the matter be referred to a divorce commissioner; otherwise, the case will be heard by a judge. The parties must comply with the requirements of the Court as set out in the Chesapeake Circuit Court Uncontested Divorce Procedures Manual.

(B) Contested Divorces: Contested cases may be heard by a judge or by a divorce commissioner.

1. To have a contested case heard by a judge, the parties must comply with the requirements of the Court as set out in the Chesapeake Circuit Court Contested Divorce Procedures Manual.
2. To have a contested case heard by a divorce commissioner, the parties must submit a Decree of Reference to the clerk's office endorsed by both parties indicating their agreement that the case be heard by a divorce commissioner or a divorce commissioner may be appointed upon motion of either party or the court for good cause shown.

(C) Commissioners in Chancery: Hearings in such causes held before a Commissioner in Chancery of this court which are commenced on or after July 1, 2005 shall be conducted in accordance with this Order and the Commissioner shall inquire and report, as follows:

1. On what date(s) was the hearing held?
 - (a) What method of service (subpoena in chancery, waiver or acceptance) was made upon the defendant?
 - (b) Was notice given of the hearing before the Commissioner, and by what method?
2. Who appeared at the hearing before the Commissioner as a party or as a witness?
 - (a) If the parties were represented by counsel, who represented each party?
 - (b) Did all persons who testified appear personally before the Commissioner?
 - (c) If any person appeared by deposition, was that appearance authorized by an order of the Court?
3. Does this Court have personal jurisdiction over the defendant?
4. Does this Court have jurisdiction of the subject matter?
5. Are the parties sui juris?
 - (a) Is either party incarcerated?
 - (b) If so, has a committee or guardian ad litem been appointed, or has the defendant waived his/her right to one?
6. Is the defendant in the armed forces of the United States?
 - (a) If so, has he/she either appeared in person or by counsel, executed a waiver of rights under the Soldiers' and Sailors' Civil Relief Act?
 - (b) Had an attorney been appointed to represent him/her?
7. When and where were the parties lawfully married?
8. Pleading the grounds for divorce
 - (a) Do the pleadings state a ground for relief?
 - (b) In lieu of the pleaded cause, has a motion been made as permitted by § 20-121.02?
9. Does independent, corroborating evidence support the ground upon which relief is sought?
10. Should relief be granted by way of divorce, etc.?
11. Stipulation agreement
 - (a) Is there a valid stipulation and agreement between the parties?
 - (b) Does the Commissioner recommend that it be ratified and affirmed?
 - (c) Should it be incorporated in the decree?
12. Spousal support
 - (a) Should either party be required to pay spousal support, or should there be a reservation of spousal support?
 - (b) To whom should support be paid and in what amount? Should it be paid in installments, by lump sum, or by a combination, and for what duration?

- (c) Should an income deduction order be entered?
 - (d) Has any provision been made for health care for the dependent spouse?
 - (e) What written findings and conclusions are made by the Commissioner as required by § 20-107.1(F)?
13. Were there any children born of the parties during the marriage, adopted during the marriage, or born of the parties before the marriage whose paternity has been acknowledged?
14. Is child custody contested?
15. If custody is contested:
- (a) Has an affidavit been filed or the general information been provided under oath in the initial pleadings as required by § 20-132?
 - (b) Have the parties attended the educational seminar required by §20-103?
 - (c) Have the parties attended a dispute resolution evaluation session pursuant to § 20-124.4?
16. Custody
- (a) Who should be awarded custody? Why?
 - (b) Has the commissioner considered all the factors in § 20-124.3?
 - (c) If custody is to be awarded to a person other than the parents, has that person been made a party to this action?
17. Is visitation contested?
18. Who is to be awarded visitation, and on what terms? If visitation is to be awarded to a person other than the parents, has that person been made a party to this action?
19. Is child support contested?
20. Child support
- (a) Who should be required to pay child support?
 - (b) What is the proper amount of support? Why?
 - (c) What payment method should be used?
 - (d) Has the commissioner considered all of the factors in § 20-108.1(B) and § 20-108.2?
 - (e) Is this the amount set out in the statutory guidelines? If not, why not?
 - (f) Should payment through the Department of Social Services be required?
 - (g) Should the payment through the Department of Social Services be made by income deduction order?
21. Health care for child(ren)
- (a) What provision is made for health care for the child(ren)?
 - (b) Are any extraordinary medical expenses to be paid by or reimbursed to a party pursuant to § 20-108.2(D) and § 20-108.2(G)(3)? How is such payment or reimbursement to be made?
22. Arrearages in court-ordered support
- (a) Is there a child or spousal support arrearage as a result of any prior order of this court?
 - (b) What is the amount of the arrearage and what is the period of time calculated for the arrearage?
 - (c) Has the obligee filed a written waiver of the right to collect interest on the arrearage? If not, from what date should interest accrue?
 - (d) Should additional periodic support be required to curtail the arrearage, and if so, in what amount?

23. Is there an arrearage of any type other than that specified in Question 22 above arising from a court order or from an agreement between the parties?
- (a) What is the nature of the arrearage, the amount, and what measures are recommended to curtail it?
 - (b) Should a judgment be awarded for the arrearage? If so, should it bear interest, and from what date?
24. Should any party be required to sign the appropriate tax forms necessary to grant to the other party the right to take the federal and/or state income tax dependency exemption for any child or children of the parties? For which tax year(s)?
25. If a party requests that her former name be restored, what is the Commissioner's recommendation?
26. What is the proper compensation for the Commissioner?
27. Should either party be required to contribute toward the counsel fees of the other party? What is the amount to be paid and by what date should it be paid?
28. How should the costs of the action be assessed and by what date should they be paid?
29. What are the social security numbers (or other control numbers issued by the Department of Motor Vehicles) of each party?
30. Any other matter deemed proper by the Commissioner or requested to be reported by any party, including information required by § 20-60.3.

(D) Equitable Distribution: In order to provide for the orderly handling and disposition of those issues enumerated in § 20-107.3, as amended, the request permitted to be made by either party (i) shall be in writing, and (ii) shall set forth the specific relief sought, as provided for in § 20-107.3 and (iii) shall be filed in the action prior to the entry of any Order of Reference to a Commissioner in Chancery. In all such causes wherein a written request for relief under § 20-107.3 has been made by a party, the Commissioner shall inquire and report as required by the following, or as required by any future amendments to this Order:

1.
 - (a) On what date(s) was the hearing held?
 - (b) Was notice given of the hearing before the Commissioner, and by what method?
2.
 - (a) Who appeared at the hearing before the Commissioner as a party or as a witness?
 - (b) If the parties were represented by counsel, who represented each party?
 - (c) Did all persons who testified appear personally before the Commissioner?
 - (d) If any person appeared by deposition, was that appearance authorized by an order of the court?
3. What property is the separate property of each party and what is the value of the separate property?
4. What property is marital property? Who holds legal title to the marital property? What is the value of the marital property?
5. What property is part marital and part separate property? Who holds legal title to this property? What is the value of this property?
6. What valuation date was utilized by the Commissioner in the valuation of all property? Why?
7. Does the Commissioner recommend the division or transfer of jointly owned marital property? Which property and under what terms?
8. Does the Commissioner recommend the granting of a monetary award? To whom and under what terms and conditions?

9. Does the Commissioner recommend the apportionment and payment of the debts of the parties or either of them? Which debts and under what terms and conditions?
10. Does the commissioner recommend the payment of any marital share of any pension, profit sharing or deferred compensation plan or retirement benefit, whether vested or non-vested? How should such payment be made?
11. Is there a personal injury or workman's compensation recovery which is marital property? Does the Commissioner recommend payment of a percentage of the marital share?
12. Has the Commissioner considered all of the factors in § 20-107.3(E)?
13. Any other matter deemed proper by the Commissioner.

This Order shall become effective for all hearings commenced on or after July 1, 2005 and shall remain in effect until amended by further order of this Court.

In causes for divorce, annulment, affirmance and separate maintenance heard by a Commissioner in Chancery:

It shall be the responsibility of the party arranging the hearing date for an uncontested case before the Commissioner to pay to the Commissioner his fee in advance of the hearing. The fee of the Commissioner in uncontested cases shall be \$100.00, which shall include the stenographic fee.

The fee of the Commissioner in cases in which equitable distribution is contested shall be a flat fee of \$100.00 per hearing hour and a \$150.00 report fee. The fee in contested cases in which equitable distribution is not contested shall be a flat fee of \$100.00 per hearing hour for the entire hearing.

In all contested cases, the commissioner's fee shall be determined at the applicable hourly rate from the scheduled start of the hearing to the conclusion thereof, less any time for recesses (lunch, dinner, overnight, etc.). Any time less than a full hour shall be prorated in quarter-hour segments with any time less than a quarter hour deemed to be a full quarter-hour segment.

In contested cases the Commissioner's fee and the court reporter's fee shall be paid in advance of the hearing. It shall be the responsibility of the party arranging the hearing date to contract for a court reporter to be present at the hearing. In all contested cases, the Commissioner shall require the parties to appear at a pre-hearing conference at least ten (10) days prior to the hearing date, for which the commissioner may charge the applicable hourly hearing fee rate. The Commissioner may require the parties in contested cases to submit pre-hearing briefs. The Commissioner's fee and the stenographic or court reporter fee shall be taxed as a part of the costs of the proceeding in all cases.

When a hearing has been scheduled with a Commissioner and it is continued upon request of a party, then the Commissioner shall be entitled, in his/her discretion, to charge a \$100 cancellation fee unless notice of cancellation is given to the Commissioner not less than two (2) full business days (at least 48 hours) prior to the hearing. When a hearing designated as "contested" has been scheduled with a Commissioner, its designation may thereafter be changed to "uncontested" without cost to the parties, provided ten days' advance notice of the change in designation is provided to the Commissioner. If less than ten days' notice of such change is provided to the Commissioner, the Commissioner may, in his/her discretion, charge a \$100 re-designation fee.

When an Order of Reference to a Commissioner in Chancery has been entered and ninety (90) days have elapsed without a party scheduling a hearing time and date with the Commissioner, the Commissioner may return the file, along with a certification that no hearing has been scheduled, to the Clerk's Office. Thereafter, the Order of Reference shall be deemed vacated.

The Commissioners shall observe the following time standards:

1. In uncontested cases, the commissioner's report shall be filed within 10 days from the date of the hearing.
2. In contested cases, the commissioner's report shall be filed within 30 days from the date the transcript is filed, or if there are post-trial briefs, 30 days from the date that the last post-trial brief is filed, whichever occurs last.

The provisions of this Order shall become effective for all hearings commenced on or after July 1, 2005. For hearings held prior to July 1, 2005, the General Chancery Order and Supplemental General Chancery Order Concerning Equitable Distribution shall remain in effect.

[Entered: July 3, 2006]

Rule 7 — Civil Motions

Civil motions shall be heard on Wednesdays, by appointment only. Civil motions must be scheduled at least fifteen days prior to the motion date and may be scheduled for a total time of up to one hour, unless otherwise authorized by the Court. Civil motions may be scheduled through judges' chambers online at: <http://www.cityofchesapeake.net/civilmotions> or by calling the civil motions telephone line at (757) 382-3074. Any additions to the motions docket that are requested less than fifteen days prior to the motion date must be authorized by the Court.

[Entered: April 6, 2010]

Rule 8 — Additions to Court Docket – 72 Hour Rule

Excluding Saturdays, Sundays, and holidays, no matter will be added to the docket less than seventy-two (72) hours prior to the time the docket will be called, unless authorized by the Court.

[Entered: July 3, 2006]

Rule 9 — Orders

(A) In all civil cases, any order drafted by an attorney memorializing a ruling of the Court must include, beneath the judge's signature line, the name of the judge who made the ruling.

(B) Except as dispensed with in the Court's discretion pursuant to Rule 1:13 of the Rules of the Supreme Court of Virginia, all orders must be endorsed by all counsel of record or by the parties if not represented by counsel, and include the name of each attorney or party typed or printed below their respective endorsement.

[Entered: July 3, 2006]

Rule 10 — Time Sheets of Court Appointed Counsel

Court appointed attorneys shall submit their time sheets for services rendered at the conclusion of the hearing, thus allowing the defendant to know immediately the total costs due. [Entered: July 3, 2006]

Rule 11 — Deferral or Discharge of Fines and/or Costs

(A) *Deferred or Installment Payments.* The Court has established the following guidelines for deferred or installment payments of Court fines and/or costs: (1) For defendants who owe \$1,000 or less in Court costs and/or fines, the costs and/or fines are to be paid within one year; (2) For defendants who owe more than \$1,000 in Court costs and/or fines, the defendant may make installment payments of a minimum of \$50 per month; however, if all costs and fines are not paid within one year, the defendant must return to Court for a judge to approve the continuation of installment payments; (3) A defendant who has missed a required payment is in default and will be summoned to Court for a hearing with a judge in accordance with Virginia Code § 19.2-358; and (4) A person whose license has been suspended pursuant to Virginia Code § 46.2-395, and who has paid the reinstatement fee to the Department of Motor Vehicles and entered into an agreement pursuant to Code § 19.2-354 to make deferred payments shall have their license restored. Such deferred payments may be discharged by performance of community service work in accordance with subsection B of this rule [Local Rule 11(B)].

(B) *Discharge of Fines and/or Costs by Community Service.* The Court has established the following program to provide an option for individuals who are unable to pay Court costs and/or fines to discharge all or part of the imposed costs and/or fines by earning credits for the performance of community service work through the City of Chesapeake: (1) A defendant who owes fines and/or costs, whether the account is in default or not, who is unable to pay fines and/or costs, may apply to the Court for the option of discharging all or part of the fines and/or costs (not restitution) by performing community service through the City of Chesapeake. Only Community service performed through the Court's established program may count toward the discharge of fines and costs; (2) If the defendant has more than one account delinquent or in default, the defendant may only apply to discharge the fines and/or costs in one delinquent case at a time. After such fines and/or costs have been discharged, the defendant may then apply for another delinquent account; (3) A defendant may apply to discharge a down payment required to enter into a subsequent payment agreement pursuant to Code § 19.2-354.1(I) by community service under this subsection [Local Rule 11(B)]; (4) A defendant who wishes to apply should submit an application form to the Clerk; the Clerk will schedule a hearing with a judge; (5) Credits are earned at a rate per hour equal to minimum wage as established by the Virginia Minimum Wage Act (Va. Code § 40.1-28.8 et seq.); (6) A defendant ordered to perform a specific number of community service hours as a condition of a sentence, or required by a statewide program shall not be able to apply those hours to fines and costs; and (7) The option of performing community service applies only to the discharge of fines and costs, not to restitution.

(C) *Discharge of Fines and/or Costs through the Sheriff's Department.* The Court authorizes the Chesapeake Sheriff's Department to implement a program to provide an option to any person upon whom a fine and costs have been imposed, to discharge all or part of the fine or costs by earning credits for the performance of community service work before or after imprisonment. Credits are earned at a rate per hour equal to minimum wage as established by the Virginia Minimum Wage Act (Va. Code § 40.1-28.8 et seq.).

(D) The guidelines of the programs set forth in subsections A and B above, and the requirements set forth in Virginia Code § 19.2-354.1, shall be posted in the Clerk's office and on the Court's website, in accordance with Virginia Code § 19.2-354.

[Entered: November 16, 2017]

Rule 12 — Motions to Reconsider

(A) *Motions to Reconsider in Civil Cases.* The following procedures shall govern all motions to reconsider a ruling by the Court in all civil cases: The petitioner shall file a motion with the Office of the Clerk of the Circuit Court, with a copy to the Judge who made the ruling, stating the reasons for his or her request for a hearing on the motion to reconsider. The clerk will forward the matter to the respective Judge for consideration. The Court will contact the petitioner advising him or her of the Judge's decision regarding whether or not to grant a hearing. If a hearing is granted, the matter may be placed on the Court's docket.

(B) *Motions to Reconsider in Criminal Cases.* Recognizing that, while there exists no absolute right to file and have considered a motion to reconsider or modify a final sentencing order in a criminal case, notwithstanding any extant statutory or common law remedies recognized in the Commonwealth, the ends of justice may, on occasion, require that the Court reconsider a sentence. In order to avoid ex parte communications, the processing of various unclear, superfluous, and misfiled documents, and to promptly and efficiently address meritorious issues occurring post-conviction and post-sentencing, the Court adopts the following procedures to govern all motions to reconsider or modify, or post-trial requests in the nature of such, filed in criminal cases:

If a defendant was represented at trial by counsel, and counsel has not been permitted to withdraw from representation by the Court, pursuant to Rule 1:5 of the Rules of the Supreme Court of Virginia, or has not been otherwise relieved or replaced by the Court, any motion to reconsider, including a motion to reconsider a conviction, to reconsider or modify a sentence, or any other post-trial motion or request in the nature of such, must be filed by counsel for the defendant, if deemed by counsel to be warranted and not frivolous. (*See* Virginia Legal Ethics Opinion No. 1530 (May 11, 1993); *see also*, *Director of the Dep't of Corr. v. Kozich*, 290 Va. 502, 521, 779 S.E.2d 555, 565 (2015).) Motions to reconsider filed by a defendant pro se will be considered by the Court only if the defendant represented himself or herself at trial, or if counsel has been permitted to withdraw from representation by the Court.

All motions to reconsider or modify must be in writing and filed with the Office of the Clerk of the Circuit Court, with a copy sent to the judge who made the ruling, succinctly stating with particularity the reasons for his or her request for a hearing on the motion. All motions to reconsider or modify must: (1) Be typed or legibly printed; (2) Contain a certification that a copy of the motion was sent to all counsel of record; and (3) Contain a heading stating (i) the full name of the defendant, (ii) all applicable case numbers, (iii) the date of the hearing at which the ruling was made, and (iv) the name of the Judge who presided at the hearing and made the ruling that is requested to be reconsidered or modified.

Motions that comply with the procedures set forth in this rule will be considered and ruled upon by the Court. The Court will either grant or deny a hearing on the motion, and will enter an order memorializing its ruling.

The Court will take no action regarding motions or requests that do not comply with the procedures set forth in this rule; said motions or requests will be forwarded or returned to the Clerk of Court to be retained in the file.

[Entered: September 15, 2016]

Rule 13 — Notice of Trial Date to Opposing Party

Any party or attorney who receives a trial date at docket call must, within 10 days of docket call, notify the other party or their attorney in writing of that trial date by certified mail or as provided by Rule 1:12 of the Rules of the Supreme Court of Virginia, including the certificate of counsel, if the other party or their attorney does not appear at docket call.

[Entered: September 5, 2006]

Rule 14 — Continuances of Cases Due to Court Closure

Cases set to be heard on a day on which the Court and Clerk's Office have been closed pursuant to Virginia Code § 17.1-207(A)(3), due to the determination that operation of the Court and Clerk's Office, under prevailing conditions, would constitute a threat to the health and safety of personnel or the general public, will be continued as follows:

- (1) Criminal trials, motions, probation violation hearings and sentencing hearings will be called at the next scheduled Criminal Docket Call; however, counsel may submit an agreed continuance order prior to docket call.
- (2) Civil trials will be called at the Court's next scheduled Civil Docket Call. Contested divorce trials will be continued generally and may be rescheduled by contacting the Court's Docket Administrator.
- (3) Civil motions and uncontested divorce hearings will be continued generally and may be rescheduled in accordance with Local Rule 7.
- (4) If the day of closure falls on a term day, all matters other than the regular grand jury will be continued to the next term day. The regular grand jury shall be held the next day the Court is open, and the grand jurors summoned to appear on term day shall appear at the next open Court day.

[Entered: April 17, 2014]

Rule 15 — Guardians ad Litem for Children – Filing of Reports

In all cases involving child custody, visitation, or parenting time, where a guardian ad litem ("GAL") has been appointed for the child(ren), the GAL shall abide by the Standards to Govern the Performance of Guardians ad Litem for Children promulgated by the Supreme Court of Virginia, which are in effect at the time of representation.

In all such cases, the guardian ad litem shall file with the Court a written report containing the GAL's findings with recommendations, and the basis for those recommendations. The original written report must be filed with the Clerk of Court, with copies delivered to Judges' Chambers and to all parties, at least **ten (10) days** in advance of a scheduled hearing at which custody, visitation, or parenting time is at issue.

[Entered: October 3, 2017]

Rule 16 — Standards for Courtroom Decorum

Virginia Canon of Judicial Conduct 3(A)(2) mandates that judges require order, decorum, and civility in all court proceedings.

The purpose of the following protocol is to emphasize, not supplant, certain portions of the ethical principles applicable to an attorney's conduct in the courtroom and to preserve the dignity of the courtroom and judicial process. In all professional functions an attorney should be competent,

prompt, and diligent. The best standards for courtroom decorum in all situations consist of common sense, courtesy, and good manners; attorneys are officers of the court and they should conduct themselves accordingly. These standards are also intended to further efficient and orderly Court operation and to ensure that all parties who come before the Court receive a fair trial.

Counsel shall at all times conduct and comport themselves with dignity, propriety, and civility; this includes, but is not limited to:

- (1) Counsel should be on time for each Court session or appointment. Court engagements take precedence over any other business. Settlement or plea negotiations should take place before the day of trial.
- (2) Counsel should come prepared for each Court session. This includes having made sufficient contact with their client and witnesses, and being prepared to argue any points of law that may arise. Failure to interview or otherwise make contact with a client is generally not an acceptable basis for a continuance.
- (3) All persons, unless physically unable, should stand when Court is opened, recessed, or adjourned. When addressing, or being addressed by the Court, counsel shall rise unless excused therefrom by the Court. All statements and communications to the Court shall be clearly and audibly made from a standing position at the counsel table facing the Court or the witness. Counsel shall not approach the bench unless requested to do so by the Court or unless permission is granted upon the request of counsel.
- (4) Attire for counsel should be professional, restrained, and appropriate to the dignity of a Court of the Commonwealth of Virginia. A male attorney appearing in Court should be dressed in a coat, shirt, and tie; a female attorney should wear comparably conservative attire.
- (5) Counsel should address all remarks, other than examination of a witness, to the Court, not to opposing counsel or the opposing party.
- (6) Counsel shall refer to all persons, including witnesses (except children), other counsel, and the parties, by their surnames and not by their first or given names, unless otherwise permitted by the Court.
- (7) Counsel shall refrain from disparaging personal remarks or acrimony toward opposing counsel, and remain wholly detached from any ill feeling between the litigants or witnesses. Bickering between counsel during the course of a hearing or trial is impermissible.
- (8) Counsel shall refrain from making — and shall admonish all persons at the counsel table who make — gestures, facial expressions, audible comments, or the like, as manifestations of approval or disapproval during the testimony of witnesses, during argument of counsel, after a ruling of the Court, and at any other time; this behavior is strictly prohibited and may be deemed contempt pursuant to Virginia Code § 18.2-456, and/or a violation of Virginia Rule of Professional Conduct 3.5(f).
- (9) Examination of witnesses shall be conducted by counsel standing behind the counsel table. Counsel must receive permission from the Court to approach the witness for any purpose, including for presenting, inquiring about, or examining the witness with respect to an exhibit. Only one attorney for each party may participate in the examination or cross-examination of a witness.
- (10) Only material related to the Court's business may be read in the courtroom while Court is in session. Non-court related reading (such as newspapers, books, or magazines) are prohibited while Court is in session. Electronic devices are permitted

only for counsel to consult calendars, for scheduling purposes, or other information related to a case or other court business; all other uses shall only occur outside the courtroom. Cellular telephones and other noise-making electronic equipment must be placed in silent mode or turned off while Court is in session.

- (11) Counsel shall refrain from having conversations in the courtroom and from approaching someone at counsel table while Court is in session. All movement in and out of the courtroom shall be in a quiet and non-disruptive manner.
- (12) Counsel should be mindful that Virginia Rule of Professional Conduct 3.3(a)(3), with regard to candor toward a tribunal, mandates that an attorney shall not knowingly fail to disclose to the Court any controlling legal authority in the Commonwealth known to the attorney to be adverse to the position of their client and not disclosed by opposing counsel.

[Entered: June 7, 2018]