

17<sup>th</sup> Judicial Circuit of Virginia

Local Rules and Preferred Practices

Effective July 1, 2014

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**17<sup>th</sup> Judicial Circuit of Virginia**  
**Local Rules and Preferred Practices**

**Part A**  
**Title and Construction**

(I) **Title:** These rules are known as the Local Rules and Preferred Practices for the 17<sup>th</sup> Judicial Circuit and may be cited as “17<sup>th</sup> Cir. R. P.”.

(II) **Purpose:** All parties, whether proceeding *pro se* (self-represented) or by counsel (represented by an attorney) should have equal access to information governing the presentation of matters before the Court for just adjudication. Over time, numerous matters addressed herein have become the local practice or have been addressed in memoranda previously issued by the Court. To promote equal access to information, the Court hereby promulgates these Rules for use by all who seek relief from the Court. No case will be dismissed for failure to follow these Rules.

(III) **Construction:** These Local Rules and Preferred Practices are issued pursuant to and strictly subject to Virginia Code Section 8.01-4, the Court having determined they are necessary to promote proper order and decorum of matters before the 17<sup>th</sup> Judicial Circuit Court, and for the efficient use of the Arlington courthouse facilities, and they are issued pursuant and strictly subject to Rule 1:15 of the Rules of the Virginia Supreme Court. These rules are subordinate to the United States Constitution, the Constitution of Virginia, the Code of Virginia, case law of the Supreme Court of the United States and the appellate courts of Virginia, and the Rules of the Supreme Court of Virginia. A conflict between any of the foregoing and the 17<sup>th</sup> Cir. R. P. shall be construed against the 17<sup>th</sup> Cir. R. P..

(IV) **Effective Date:** These Local Rules and Preferred Practices are effective July 1, 2014 and shall govern all actions then pending or commenced thereafter, but shall not apply retroactively.

(V) **Application:** These Local Rules and Preferred Practices are issued for all parties, including *pro se* parties, attorneys and any attorney appointed as a guardian *ad litem* to follow. If a party is acting *pro se*, reference in these rules to “counsel” shall mean the *pro se* party, except where otherwise provided. Subject to Part A and Part 1 of the 17<sup>th</sup> Cir. R. P., the provisions contained in Part 2 shall govern criminal law cases; those in Part 3 shall govern civil cases; those in Part 4, also subject to Part 2 or Part 3, as applicable shall govern all electronic filings; and those in Part 5 shall govern mental commitment hearings conducted by special justices. For good cause, upon motion of any party, or upon the Court’s own motion, the Court may waive the application of these rules. These Rules and Preferred Practices are not intended to be exhaustive. In the event the Court believes that any part hereof should not apply to any type of proceeding, it may also issue a standing order to that effect. Nothing herein relieves any party from complying with the laws of the Commonwealth of Virginia or the Rules of the Supreme Court of Virginia.

(VI) **Publication and Amendments:** The 17<sup>th</sup> Cir. R. P. shall be posted in the Office of the Clerk of the Circuit Court, shall be provided to the Arlington County Bar Association and its law library, will be posted on the Court's website (<http://courts.arlingtonva.us/circuit-court/>), and will be provided upon request. Amendments by the Court to the 17<sup>th</sup> Cir. R. P. will be disseminated as aforesaid. The Clerk of the Circuit Court and the Arlington Bar Association may publish a copy of the 17<sup>th</sup> Cir. R. P. on their respective websites.

(VII) **Reserved**

**Part 1**  
**General Provisions**

**1.1 Hours of Operation:** The Courthouse shall be open from 8:00 a.m. until 5:00 p.m., and Judicial Chambers ("Chambers") will be open from 9:00 a.m. to 5:00 p.m., Monday through Friday, except as otherwise provided herein or ordered by the Court. A proceeding in any courtroom of the courthouse may proceed beyond the foregoing hours as determined by the presiding judge, unless otherwise ordered by the Chief Judge of this Circuit.

**1.2 Delay or Closure:** In the event the Court is closed, all matters docketed on the date the Court is closed will be docketed for a status hearing the following business day, to be heard on the Court's regular docket. In the event counsel is not available the following business day, counsel shall contact Chambers no later than 9:00 a.m. that day to select another status date acceptable to the Court within seven (7) calendar days and inform opposing counsel. If the Court is closed due to inclement weather, such event will be published on the Clerk of the Circuit Court's website or through local media.

**1.3 Use of Electronic Equipment:**

A. **Courtroom Equipment.** The Circuit Court courtrooms are equipped with electronic equipment for use during a court proceeding. Prior to using such equipment, counsel shall be familiar with its use and be ready to proceed without the necessity of the Court taking a recess. In advance of the hearing date, counsel may receive training on the courtroom equipment or confirm compatibility of counsel's equipment by contacting the Clerk of the Circuit Court. In the event counsel wishes to bring his or her own electronic equipment to be operated independently of the courtroom equipment, counsel must obtain approval of the presiding judge.

B. **Communication Devices, Recording Devices, and Computing Devices.** For safety and security reasons, and to ensure the integrity of the judicial process, all cellular or smart phones, pagers, personal data assistants, laptops, electronic tablets, tape recorders, cameras, photographic or video recording equipment, electronic communication devices and similar types of devices are prohibited in the Arlington County Courthouse, except for courthouse equipment and as provided below.

- i. **Exemption Group A.** The following individuals shall be exempt from the prohibition against possessing the foregoing devices while in the Arlington



County Courthouse:

- a) Judicial Officers.
  - b) Active members of the Virginia State Bar in good standing who present a valid government-issued photo identification and a validly issued Virginia State Bar membership card.
  - c) Active members of a foreign state's bar in good standing who are not members of the Virginia State Bar, who present valid government-issued photo identification and a validly issued state bar membership card, and with permission of the presiding judge.
  - d) Individual(s) as permitted by law or otherwise approved by an Arlington County Judge governing the judge's courtroom and court proceeding.
- ii. Exemption Group B. The following individuals shall be exempt from the prohibition against possessing cellular or smart phones, pagers, personal data assistants, laptops, or electronic tablets while in the Arlington County Courthouse:
- a) Current Arlington County Courthouse employees possessing a valid Arlington Sheriff-issued photograph identification card (as determined by the Arlington County Sheriff).
  - b) Current Arlington County employees possessing a valid Arlington County-issued photograph identification card (as determined by the Arlington County Sheriff).
  - c) Current Local, State or Federal Law Enforcement Officers on official business and possessing valid current government-issued identification demonstrating such employment (as determined by the Arlington County Sheriff).
  - d) Building and maintenance tradesmen, equipment repairmen, and vendors who do not pose a security risk (as determined by the Arlington County Sheriff), who are at the courthouse to employ their trade and whose ability to access such device is necessary for their work at the courthouse, may be permitted to possess these devices only upon the express authorization of the Arlington County Sheriff or the Sheriff's designee and upon written request to the Sheriff detailing the individual's name, purpose for the visit to the Courthouse, the period of time the person expects to be in the courthouse, the electronic devices intended to be brought into the courthouse, and the justification for possessing such device while in the courthouse.
  - e) Court reporter or land record title searcher who, either previous to the effective date of these Rules, or subsequently, requested and received of the Arlington County Sheriff an exemption, which was granted, and whose name appears on a list maintained by the Sheriff.
  - f) Juror who possesses a valid juror summons or badge. A juror shall not use any such device to record, photograph, or otherwise transmit or communicate any court proceeding.

Use of cellular phones and other electronic devices by persons exempt from the prohibition shall not take place in any courtroom without prior approval of the presiding judge. Any sound (audio) function shall be silenced. While in the courtroom, counsel is prohibited from using cellular phones, laptops, personal digital assistants, and other similar electronic devices except when at counsel table or the podium and when necessary for the pending case.

Absent permission by the Court, no one shall photograph or video any internal part of the courthouse.

Should the use of any electronic device be contrary to the foregoing, the Court may confiscate such device for such term as determined by the presiding judge to ensure no further interference with court proceedings. In the event an electronic device is brought into the courthouse contrary to this rule, the Arlington County Sheriff may confiscate such device and inform the presiding judge; or should discovery of the item be made outside of a courtroom in possession of a non-exempt individual, the Chief Judge of the Circuit Court shall be informed, who will then determine necessary action. A violation of 17th Cir. R. P. 1.3 will be the subject of a contempt proceeding, thereby subjecting the violator to possible appropriate sanctions by the Court.

Notwithstanding the foregoing, if a presiding judge determines that the use of an electronic device in the courtroom or outside the courtroom during a proceeding impairs or adversely affects the judicial proceeding, the judge may order that the use of such devices is prohibited.

**1.4 Displacement of Prior Memoranda or General Orders:** These Rules displace the Court's prior memoranda or general orders governing the courthouse or proceedings.

**1.5 Reserved**

**Part 2**

**Criminal Cases and Management of the Criminal Docket**

**2.1 Calendar:**

A. Term of Court. Pursuant to Virginia Code Section 17.1-517, as amended, beginning July 1, 2014, the Court's Criminal Term shall begin the first Monday (or the next business day of the Court if the Monday falls on a day the Court is closed) of July, September, November, January, March, and May of each year, unless otherwise ordered by the Court.

B. Criminal Docket. The criminal docket will be called Monday through Thursday beginning at 9:30 a.m. for trials, pleas, bond motions, non-evidentiary motions, as provided herein, and such matters as the Court shall docket ("regular criminal docket"). Sentencing, revocation and rule to show cause hearings will be scheduled and called on Friday beginning at 9:30 a.m., unless otherwise ordered by the Court. For case setting, see 17<sup>th</sup> Cir. R. P. 2.2, *infra*.

C. Motions Docket. The Court has established a docket for motions in criminal cases that require the Court to hear evidence ("Evidentiary Motions"). The docket will be called

at 9:30 a.m. on the first (1<sup>st</sup>) and third (3<sup>rd</sup>) Thursday of each month and on the first (1<sup>st</sup>) Monday of each Criminal Term of Court. Evidentiary Motions may also be scheduled on an emergency basis with leave of Court upon a request being made through Chambers. See, 17th Cir. R. P. 2.3(A)(iv). Non-evidentiary motions may be set as provided in sub-part 2.3, *infra*.

D. Changing a Court Date for Trial, Motion, Disposition or Sentencing Hearing.

- i. Purpose. These policies governing the changing of a court date are adopted to improve the management of the Court's docket, for the proper allocation of judicial resources, to facilitate the Court's provision of services, and to comply with the best practices adopted by the Supreme Court of Virginia.
- ii. Procedure to Continue a Trial Date.
  - a) Notice. Any request for continuance of a trial date must be made as far in advance of trial as reasonably possible. All requests for continuance of a trial must be made by written motion and properly noticed for hearing. A motion to continue may be heard on any regular criminal docket or Evidentiary Motions docket. The motion to continue the trial date must fully state the good cause in support of the motion and it must include a representation of the number of previous continuances, the reasons for the previous continuances, and the dates from which the matter was previously continued.
  - b) Good Cause. Continuances will only be granted in the Court's discretion for good cause shown. The following, by way of example, may not automatically constitute good cause:
    1. Both parties agree to the continuance.
    2. The case has never been continued before.
    3. The case will probably resolve if a continuance is granted.
    4. Counsel's failure to be prepared for trial.
    5. After the trial or hearing date has been docketed, a witness (subpoenaed or not) advises being unavailable for trial. The Court expects counsel to have set the trial date with witnesses' availability known.
    6. The case has been continued once, but on motion of the other party.
  - c) Submission of Court Order. Whenever a continuance of a trial is granted, counsel shall be prepared to submit an endorsed order at the hearing for the continuance. The order shall state upon whose request the continuance is granted, the date from which the trial is being continued, the new date to which the trial is continued, and such other terms as the Court may require.

- iii. Procedure to Advance a Trial for Disposition. For proper docket control, the Court prefers that, in the event of an agreed disposition, cases set for a jury trial be advanced on the docket to avoid unnecessarily having potential jurors report to Court and incurring the expenses associated with a jury being taxed against the party otherwise chargeable. The parties should confer and consult with the docketing administrator in Chambers to choose a date and submit an agreed order to Chambers in advance of the scheduled jury trial. The original trial date will remain on the Court's docket in the event that the disposition does not resolve the matter on the date advanced.
- iv. Procedure to Continue a Plea. After a plea has been set on the Court's docket it may only be continued by leave of Court. The request to continue the plea may be placed on the Court's docket pursuant to 17<sup>th</sup> Cir. R. P. 2.3(A)(iv)(b).
- v. Procedure to Continue a Sentencing or Post-Sentencing Hearing by Consent. Where there is consent between the parties to continue a post-sentencing hearing, counsel is required to submit to Chambers an agreed order endorsed by both parties stating the reason for the continuance and the number of any previous continuances. The matter will be taken under advisement. The matter shall remain on the Court's docket unless Chambers otherwise informs counsel.

E. Grand Jury. When a grand jury is called, it shall convene on the last Monday of the month, beginning the month of July 2014, and each month thereafter, except for the month of December each year when it will be held on the Monday immediately preceding the 25<sup>th</sup> day of December, or in December 2018 when it will be held on the third (3<sup>rd</sup>) Monday of that month. In the event the Courthouse is closed on such date, the grand jury shall convene on the next day the Courthouse is open.

F. Reserved.

## 2.2 Case Setting:

A. Procedure. Unless otherwise ordered by the Court, criminal cases will be set for hearing, trial or disposition as provided herein.

B. Indictments. Case setting for criminal cases originating from a grand jury shall take place the first (1<sup>st</sup>) Monday of the month following the indictment (or the next business day of the Court if that Monday falls on a day the Court is closed). Where the named defendant is charged with a felony, the defendant is required to appear at case setting. Where the charge is a misdemeanor, Counsel may waive the defendant's appearance for case setting. Docket call shall begin at 9:30 a.m.

C. Misdemeanor and Non-Custodial Juvenile and Domestic Relations Appeals. Cases before the Court on appeal from the General District Court of a misdemeanor conviction

or traffic offense, or properly before the Court on an appeal from the Juvenile and Domestic Relations Court from a proceeding involving a child not held in custody, shall be set on the Court's regular criminal docket (9:30 a.m.), as it is held on the third (3<sup>rd</sup>) Monday (or the next business day of the Court if that Monday falls on a day the Court is closed) following the expiration of the lower court appeal period for the parties to appear and set the matter on a later date for trial or disposition.

D. Custodial Juvenile and Domestic Relations Appeals. Cases appealed from the Juvenile and Domestic Relations District Court involving a child held in custody shall be placed on the Court's next available regular criminal docket to set the matter for further proceedings.

E. Availability of Witnesses for Trial. The Court expects that, prior to case setting, counsel shall have conferred with all witnesses whom counsel reasonably expects to call at trial in order to obtain the witnesses' dates so a trial date may be set which is consistent with the availability of such witnesses. In the event counsel has failed to secure any witness's avoid dates, counsel shall expressly inform the Court at case setting and state the efforts made by counsel to secure such dates, at which time the Court may set the trial date, set the case for a later status hearing in order to set the matter for trial, set the case for disposition, or take such other appropriate action. All counsel and parties should be prepared to set the trial or disposition date at case setting. Failure to secure dates of known witnesses may not, without good cause, be grounds for a subsequent continuance.

F. Setting a Case for Disposition. In the event the defendant at case setting believes the case may be set for disposition, the matter shall be set no later than thirty (30) calendar days out, unless otherwise ordered by the Court.

## 2.3 Motion Requirements:

### A. Filing.

#### i. Certain Motions to be in Writing.

All motions, except as addressed in 17<sup>th</sup> Cir. R. P. 2.1(D) (iii) (iv) and (v) shall be in writing. If counsel believes it would aid the Court, a written memorandum of law may accompany the motion. Every motion shall include the following information, in addition to such other information counsel believes would aid the court: nature of the pending charges, date of trial or disposition (if applicable), and a brief and concise statement of the bases for the motion and the relief requested. To assist the Clerk of the Circuit Court to timely place a matter on the Court's docket, the hearing date shall be included in the style of the motion, under the case number, and underlined for clarity.

#### ii. Motion Date. Counsel is required to make a good faith effort to arrange with opposing counsel the date for the motion to be heard and shall certify within the notice of motion such effort to the Court. Before counsel shall file a motion, counsel shall make a reasonable effort to determine from opposing

counsel whether the motion will be contested. If the motion is uncontested, that fact should be stated at the beginning of the motion.

- iii. Notice. Proper notice to opposing counsel shall be provided for all motions. To assist the Clerk of the Circuit Court to timely place a matter on the Court's docket, the hearing date shall be included in the style of the motion, under the case number, and underlined for clarity.
- iv. Motions.
  - a. Bond Motions. See, 17th Cir. R. P. 2.9 regarding bond motions.
  - b. Non-Evidentiary Motions. A motion that will not require the Court to take testimony may be placed on the regular criminal docket with notice and the motion filed no later than 3:30 p.m. the preceding business day.
  - c. Evidentiary Motions. Except as otherwise provided by law or the Virginia Supreme Court Rules, all evidentiary motions must be filed at least seven (7) days in advance of the motion date, and should specify on the front page of the pleading, under the case number, the hearing date and approximate time estimate. An Evidentiary Motion may not be placed on the Court's docket on the day of trial without leave of Court.
  - d. Emergency Motions. If a party believes an emergency exists for the presentation of a motion to the Court, beyond a failure to comply with any statutory requirement or Supreme Court of Virginia Rule, counsel may contact Chambers with a brief written motion explaining the nature of the emergency with a copy to the opposing counsel. A judge will review the matter and Chambers will communicate the Court's decision whether to place the matter on the Court's docket.
  - e. Furlough Requests. All motions for furlough in criminal matters must be in writing and include, in addition to such other information that may aid the court, the following:
    - 1. A statement of the underlying crime.
    - 2. The sentence previously imposed.
    - 3. The date the sentence was imposed.
    - 4. The bases for the motion.
    - 5. The official address of the destination.
    - 6. Name and contact information of the person to whom the defendant is to be released.
    - 7. The requested date and time of the defendant's release.
    - 8. The requested date and time of the defendant's return.

In the event the request asks that a person other than Arlington County Sheriff personnel take custody of the defendant, such person shall be present in Court at the hearing on the motion, unless otherwise excused by the presiding judge.

- f. Reconsideration of Conviction or Sentencing. Except as provided herein, the Court will take all motions for reconsideration under advisement. The Court will either thereafter decide the motion on the papers or set the motion for hearing. If a hearing is set, any written opposition to the motion should be filed no less than one (1) business day prior to the hearing date. Counsel shall not cause a motion for reconsideration to be placed on the docket without leave of Court. However, if the Court has previously granted leave to file a motion for reconsideration upon completion of the Addictions, Corrections and Treatment (ACT) program in the Arlington County Detention Facility, counsel may contact Chambers and cause the motion to reconsider to be placed, without leave of Court, on the sentencing judge's Friday criminal docket, so long as the defendant has successfully completed the program and the ACT Unit has filed with the Clerk of the Circuit Court a written report so stating.
- g. Post-Conviction Motions (not seeking reconsideration). Except as provided in the preceding sub-part or as otherwise ordered, post-conviction motions not seeking reconsideration that have been filed with the Clerk of the Circuit Court may be placed on the sentencing judge's Friday criminal docket only after first obtaining leave of Court and an approved date from Chambers.
- h. Reserved.

#### **2.4 Incidents of Hearing or Trial:**

A. Jury Instructions. No less than two (2) business days before the first day of trial, the parties shall exchange proposed jury instructions. At the commencement of the trial, counsel (and *pro se* parties) shall submit to the Court two sets of jury instructions, with appropriate citations: one set, as to which the parties agree, and the other set as to which there is a dispute. The set of disputed instructions, as then known, must include citations to support the instruction. This requirement shall not preclude the offering of additional instructions at the trial. The parties shall also bring to court all instructions, including a set without citations thereon.

B. Language Interpretation.

- i. Foreign Language Interpretation. When a criminal matter is docketed for a hearing or trial and a party will require an interpreter at the hearing or trial to interpret any language from or to English based on the defendant's or a witness's limited English proficiency, counsel shall, as soon as practicable, make the request for the interpreter to Chambers. Notwithstanding the foregoing, Spanish-speaking interpreters are available on a daily basis, without a specific request, for all proceedings except a trial or an Evidentiary Motion hearing. If a Spanish-speaking interpreter is needed for a trial or Evidentiary Motion hearing, the procedures set forth herein to request other language interpreters shall be followed. Payment or imposition as costs for the interpreter's services may be ordered as permitted by law.

The following information should be provided at the time of the request:

1. Name and contact information of attorney requesting the interpreter.
2. Language(s) required.
3. Name of defendant/victim/witness.
4. Docket number(s).
5. Charge(s)/code section.
6. Date/time needed.
7. Type of proceeding (office/jail/court).
8. Reason for need.
9. Approximate length of visit.

If there is any change in the date or time of the hearing, trial or meeting involving an interpreter, the Court must be notified, as soon as possible, so the request may be changed or cancelled. Cancellations less than forty-eight (48) hours prior to the scheduled appearance time may result in the Court being charged the interpreter's fee, in which event the Court may not authorize payment of this fee so that the party or attorney requesting the interpreter's services may be required to pay the fee directly.

The Court has on staff a limited number of staff interpreters available through the Office of the Executive Secretary (OES) and, if necessary, contract interpreters. In the event the Court orders a contract interpreter, payment for said services shall only occur after the vendor-interpreter submits to Chambers for approval and further submission by the Court to the Supreme Court of Virginia the following information: the vendor's invoice and a completed Commonwealth of Virginia voucher required for payment of such services. Payment requests cannot be approved or forwarded to the Supreme Court for processing unless this process is followed. Counsel who requested the service that necessitated a contractor shall be responsible for ensuring compliance with the foregoing payment requirements.



ii. Sign Language Interpreter. When a criminal matter is placed on the Court's docket and a party requires assistance due to hearing impairment, Counsel shall then make the request to Chambers, as soon as practicable, for an interpreter or equipment and complete the necessary forms as directed by Chambers. Services through the Virginia Department of Deaf and Hard of Hearing (VDDHH) will be arranged at no cost. VDDHH requires a minimum of ten (10) business days notice. If there is any change in the date or time of the hearing, trial or meeting for the interpreter or equipment, the Court must be notified as soon as possible.

iii. Written Translation.

Requests for translation of documents or audio material must be made by motion, filed with the Clerk of the Circuit Court and scheduled for a hearing, unless an agreed order endorsed by counsel of record is presented at the time of filing the motion. The motion shall be timely filed and, if contested, timely docketed to ensure sufficient time for the Court to consider the request. If the motion is contested, counsel requesting the service shall bring an appropriate order to the hearing that may be marked up as necessary for entry in open Court. Failure to bring an order to the hearing will delay engagement of the translator. Without entry of an appropriate order, the Court will not initiate translation services.

The requesting party must inquire of judicial staff the name of the vendor of the interpretation services used by the Court so that the vendor's name may be specified in the order the Court may enter. Court interpreters (including Spanish interpreters on staff or others) are not customarily used to translate documents. The requesting party shall also propose a maximum amount to be incurred and be prepared to justify said request to the Court. Counsel is encouraged to confer with the vendor prior to the motion requesting the service is argued.

The initial arrangement for pick-up by the translation agency of the documents and return to counsel will be initiated by judicial staff. However, it is the responsibility of each attorney requesting translation services to ensure that documents are provided to and picked up from the translation agency in a timely manner and should be negotiated directly with the translation service. The Court will not approve expedited services without good cause shown.

Before payment can be made for document translation services, the vendor-translator must submit to Chambers for approval and further submission by the Court to the Supreme Court of Virginia the following information: a copy of the Court's order approving the translation services, the vendor's invoice, and a properly completed Commonwealth of Virginia voucher required for payment of such services. Payment requests cannot be approved or

forwarded to the Supreme Court for processing unless this process is followed. Counsel who requested the service shall be responsible for assuring compliance with the foregoing payment requirements.

C. Transportation Orders. At any time a defendant is not being held at the Arlington County Detention Center, it is Counsel's responsibility to request a transportation order, and the request must be made to the Clerk of the Circuit Court, Criminal Division sufficiently in advance of the hearing date to effectuate the entry of the order and transportation of the defendant.

## **2.5 Sentencing:**

A. Terms of Probation. At sentencing for every felony conviction, the Court will consider making each of the provisions contained in this sub-part a condition of probation. Unless a party objects or the Court otherwise determines any provision inapplicable, the following will be ordered:

1. Obey all Federal, State and local laws and ordinances.
2. Report any arrests or citations, including traffic tickets, within three (3) business days to the Probation and Parole Officer ("Probation Officer").
3. As directed by the Probation Officer, maintain regular employment or be a part-time or full-time student. In all events, notify the Probation and Parole Officer within three (3) business days of any changes in employment or student status.
4. Report in person or by telephone to the Probation and Parole Arlington Office within three (3) business days of your release from incarceration, and as otherwise instructed thereafter.
5. Permit the Probation Officer to visit your home and place of employment.
6. Follow all lawful instructions of the Probation Officer and be truthful, cooperative, and report as instructed.
7. Not consume alcoholic beverages to the extent that it disrupts or interferes with your employment or orderly conduct or as otherwise ordered by the Court.
8. Not unlawfully use, own, possess or distribute controlled substances or related paraphernalia, as defined under the laws of the Commonwealth of Virginia.
9. Not use, own, possess, transport, or carry a firearm.
10. Not change your residence without the permission of the Probation Officer, not travel outside of a designated area set by the Probation and Parole Officer, and not leave the Commonwealth of Virginia without permission of the Probation Officer.
11. Not abscond from supervision. Your Probation Officer will consider you an absconder if your supervising officer does not know your whereabouts.

12. Full payment of all court ordered restitution, court costs, fees and fines prior to the expiration of probation. Unless otherwise ordered, payments will be first applied to restitution before being applied to court costs, fees or fines.
13. A violation of these and any special terms of probation will subject you to a hearing that may result in revocation of your suspended sentence and extension of your probationary period.

At the time of sentencing the Court will also consider such special conditions as necessary.

B. Sentencing Docket Time Estimate. In the event it appears a sentencing hearing may exceed thirty (30) minutes, counsel shall notify Chambers so that the Court may properly set the docket.

C. Restitution, Court Costs and Fees. At the time of sentencing, the Commonwealth's Attorney shall inform the Court of any restitution Counsel believes the defendant should be ordered to pay. The defendant shall present a payment plan for payment of Court ordered restitution, court costs and fees. In the event defendant seeks and is granted leave to pay court costs through community service, defendant shall also present to the Court for consideration the number of community service hours per week or month defendant is able to perform in that regard.

## **2.6 Immediate Sanction Probation Pilot Program:**

A. Description. Pursuant to Virginia Code Section 19.2-303.5, as amended, the Court is a participant in the Immediate Sanction Probation Pilot Program ("Immediate Sanction Program"), as this Section explains. The focus will be on offenders assessed by the Probation Officer to be at a high risk for recidivism or failing probation who have a record of technical violations. If the Probation Officer believes the defendant is an eligible probationer, the Probation Officer will issue a major violation report and a request for an expedited rule to show cause for entry into the Immediate Sanction Program ("expedited rule"). The Arlington County Sheriff will make three (3) attempts within five (5) days, unless circumstances otherwise dictate, before the Probation Officer requests a bench warrant. When a defendant is then brought before the Court and is placed into the Immediate Sanction Program, the Court will provide warning guidelines to the probationer, explaining the Immediate Sanction Program, and the Court will rule on the alleged violation that is the subject of the expedited rule. If a violation is found, the Court will not take further action on the expedited rule. Instead, the expedited rule will be set for a review a year later on the Court's docket ("review date hearing"). While in the Immediate Sanction Program, the probationer will be subject to the sanctions set out in the schedule provided in sub-part D for any eligible subsequent violation.

B. Eligible Offenders. To be eligible for the Immediate Sanction Program, the probationer must be an adult convicted of a felony and not on supervision for a violent offense (as defined by Code of Virginia Section 17.1-805, as amended), over whom the 17<sup>th</sup> Judicial Circuit has jurisdiction, who is under supervision within the 17<sup>th</sup> Judicial Circuit, and who does

not have probation obligations to another court. As a condition of a suspended sentence, the Court may order the probationer into the Immediate Sanction Program and, if necessary, extend the offender's probationary period to allow him or her to successfully complete the program. The assigned Probation Officer will set forth the conditions for participation in the Immediate Sanction Program, consistent with the guidelines provided by the Virginia Sentencing Commission and the Court, and inform the probationer of the conditions. The probationer will be provided written terms and conditions and other forms governing participation in the Immediate Sanction Program that the probationer will be required to review and sign, and all participants will be required to follow the directives of the Probation Officer.

C. Expedited Process. The Court will address alleged violations on an expedited basis. The assigned Probation Officer will place alleged violations under the Immediate Sanction Program on the Court's earliest available date on a Monday, Wednesday or Friday 9:30 a.m. criminal docket. Offenders will be held without bond until the hearing.

D. Sanctions. After entering the Immediate Sanction Program, the probationer will be subject to the certainty of penalties for violating probation. For instance, for each alleged violation after entry, the offender will immediately be arrested and brought to jail. The Virginia Sentencing Commission has developed a violation sanction schedule that the Court has adopted. If there is a violation to which Virginia Code Section 19.2-303.5(3), as amended, does not apply, the Court will order a short jail term, in addition to time served awaiting the hearing, according to the following schedule, as to each violation after entering the Immediate Sanction Program:

First Violation: 3-7 days  
Second Violation: 5-10 days  
Third Violation: 7-14 days  
Fourth Violation: 10-20 days  
Fifth Violation: 15-25 days  
Sixth Violation: 20-30 days.

For each new violation, the Court, unless otherwise ordered, will extend the offender's participation in the Immediate Sanction Program up to another twelve (12) months from the new violation date, and the offender's probationary period that was ordered at the time of sentencing may be extended. If the probationer has no violations while actively in the Immediate Sanction Program during a consecutive period of twelve (12) months, the Probation Officer may request the Court to consider converting all remaining supervised probation to unsupervised probation.

E. Counsel. When the Probation Officer places a violation on the docket, the Probation Officer shall at that time provide notice to the Commonwealth's Attorney and to counsel for the defendant, and counsel are required to appear in court on the date assigned. If a defendant has court appointed counsel, and that counsel is unavailable or has not made alternative arrangements, the Court will appoint the Public Defender for the purpose of the expedited hearing.

F. Proceedings. Unless otherwise provided herein, the Court adopts the procedures established by the Virginia Criminal Sentencing Commission consistent with its

authority pursuant to Title 19.2 of the Code of Virginia, as amended. If the offender produces repeated positive drug tests, the Court may order a substance abuse assessment, or if the Court considers the defendant to be addicted, the defendant may be referred to, and required to attend, substance abuse treatment. The Court may remove the offender from the Immediate Sanction Program at any time. An offender will be removed from the Immediate Sanction Program if convicted of a new felony criminal offense. An offender may be removed in the event of a new misdemeanor conviction. Any probationer removed from the Immediate Sanction Program will proceed to a hearing on the violation previously found by the Court on the expedited rule, and the probationer will be subject to the original un-served suspended sentence.

## **2.7 Restricted License Procedure for Certain Offenses:**

A. **Purpose.** Certain alcohol or drug related offenses require suspension of driving privileges. The Court may issue a restricted license or require certain other conditions, as permitted by law. A defendant may without leave of Court request the Virginia Alcohol Safety Action Program (“VASAP”) to conduct an evaluation before sentencing. Unless otherwise ordered, the Court will consider the following guidelines to determine whether to issue a restricted license:

- i. **Alcohol Related.** After conviction and upon joint motion of the Commonwealth’s Attorney and defendant or counsel that a restricted license be ordered, prior to defendant completing the VASAP intervention program (education and treatment, as VASAP may determine), but after defendant enrolls in VASAP, VASAP conducts an evaluation of defendant, and VASAP reports to the Court that the defendant should be granted a restricted license, the Court will consider such motion. If upon consideration of the VASAP report, the motion is granted, the Court will order a restricted license upon the conditions set by the Court, including: installation of the interlock device, continuing compliance with the VASAP education program and other requirements set by VASAP, and upon condition of uniform general good behavior. Otherwise, the Court will order completion of the VASAP intervention program be completed before issuing a restricted license.
- ii. **Drug Related.** Upon joint motion of the Commonwealth’s Attorney and defendant or counsel that a VASAP evaluation and recommendation is not necessary before a restricted license may be issued by the Court, the Court will consider granting a restricted license after VASAP’s verification of defendant’s stated need for a restricted license. In the event defendant brings to Court on the date of sentencing documentary proof of such need, the VASAP verification process may begin sooner and a restricted license may be entered sooner. If the Court instead orders VASAP evaluation and recommendation, then no later than six (6) weeks after the evaluation process can begin, VASAP will provide to the Court a report stating whether defendant is eligible for driving privileges in the Commonwealth of Virginia.

- iii. Necessary Documentation. Every applicant for a restricted license shall provide to VASAP the necessary documents for VASAP to verify employment, enrollment in educational program and other need to drive prior to a restricted license being signed by the Court.
- iv. Judicial Discretion. Notwithstanding the foregoing, the Court may require a defendant to be supervised by VASAP as a condition of obtaining a restricted license. If the Court requires VASAP supervision, the sentencing order will reflect that the defendant must enter and complete the VASAP program in addition to any other special conditions imposed by the Court.

## **2.8 Drug Treatment Court**

A. Description. Drug Treatment Court is an intensive outpatient substance abuse treatment program that utilizes intensive probation, frequent contacts with the Court and community monitoring to improve successful treatment outcomes and reduce recidivism.

B. Eligible Defendants. Drug Treatment Court is eligible, pursuant to Va. Code Section 18.2-254.1 to non-violent felony probationers who have technical violations of probation and who are physically addicted to substances or alcohol. Eligible probationers are initially assessed as being at the highest risk of reoffending and using substances and are referred to the Drug Court Coordinator for legal screening. The Commonwealth's Attorney and the Public Defender consider all aspects of the defendant's history in order to recommend admission into the Drug Treatment Court. The sentencing Judge will then consider referral to the Drug Treatment Court.

C. Hearings. Drug Treatment Court dockets are held every Thursday at 8:30 a.m. in courtroom 11B.

D. Handbook. The balance of the Drug Treatment Court's technical requirements, procedures, sanctions, incentives and selection processes are contained in the Drug Treatment Court Handbook and contract and can be found on the Court's web page (<http://courts.arlingtonva.us/circuit-court/>).

E. Referrals by Counsel and Others. Referral to Drug Treatment Court may be submitted by anyone involved in the defendant's case. Referrals may be made online via the Court's website and will be reviewed by the Drug Treatment Court Coordinator. Those making referrals should access the Drug Treatment Court materials available at this website before making a referral.

## **2.9 Bond Motions and Related Hearings:**

A. Bond Appeals from General District Court or Juvenile and Domestic Relations District Court. An appeal of a bond imposed by a judge of the General District Court or Juvenile Domestic Relations District Court may be placed on the Court's regular criminal docket as requested by the appellant. The appeal may be docketed on the same day if the necessary

pleadings, which need not be certified by the lower court, have been transmitted from the lower court to the Clerk of the Circuit Court while the Court is still in session. The defendant may post the bond ordered by the lower court and be released pending this Court hearing the appeal. The Sheriff of Arlington County is directed to give to each defendant released on bond pending a bond appeal notice of the date and time of the next hearing and instruct the defendant that his/her presence is required at that hearing.

B. Bond Motion in Pending Cases. Counsel may notice a case for the setting of an initial bond by filing an appropriate notice with the Clerk of the Circuit Court and providing a copy to the Commonwealth's Attorney and to Chambers no later than 3:30 p.m. the preceding court day, except that a bond hearing shall only be docketed on a Friday with leave of Court obtained through Chambers. The moving party, by counsel, must notify Chambers of the motion to ensure proper docketing. Bond motions that have been properly filed and docketed by Chambers will appear on the docket, and those received by facsimile or email, but not filed, will not be docketed. However, motions properly filed through the Court's electronic filing system will be docketed only after the required notification by the movant to Chambers. The presiding criminal docket judge shall hear the bond motion unless the Court decides otherwise. Unless otherwise ordered by the Court, all bonds granted by the Court shall include, as a condition of such bond: the defendant's appearance at all Court proceedings, compliance with the Court's orders, uniform general good behavior and, in the event of a guilty plea or finding of guilt, cooperation in the preparation of the presentence investigation report, and such other conditions ordered by the Court.

### Part 3

#### Civil Cases and Management of the Civil Docket

##### 3.1 Calendar:

A. Term of Court. Pursuant to Virginia Code Section 17.1-517, effective July 1, 2014, the Court's Term shall begin the first Monday (or the next business day of the Court if the Monday falls on a day the Court is closed) of July, September, November, January, March, and May of each year, with July 2014 Term Day beginning July 7, 2014. The Civil Term Day Docket shall begin at 2:00 p.m. on Term Day. At Term Day, cases will be set for trial pursuant to 17th Cir. R. P. 3.2(F). Cases appealed from the lower court will not be placed on a Term Day docket, but will instead be set pursuant to 17th Cir. R. P. 3.2(C).

B. Civil Docket. The civil docket will be called Monday through Thursday beginning at 10:00 a.m. for trials, motions specially set, hearings, and such other matters as the Court may docket ("regular civil docket").

C. Motions Docket. Motions in civil cases that will take thirty (30) minutes or less may be scheduled on any Friday subject to the provisions of Part A, Part 1 and 17th Cir. R. P. 3.3 ("Motions-Friday"). The Friday docket will begin at 10:00 a.m., unless otherwise stated herein or ordered by the Court.

D. Continuances.

i. Purpose. These Local Rules and Preferred Practices governing the changing of a court date are adopted to improve the management of the Court's docket, for the proper allocation of judicial resources, to improve the services provided by the Court, and to comply with the best practices adopted by the Supreme Court of Virginia.

ii. Procedure to Continue a Trial Date.

a) Notice. Any motion to continue a trial date must be made as far in advance of trial as reasonably possible. All continuance motions must be made in writing and noticed for hearing. A motion to continue may be heard on any civil motions day. The motion to continue the trial date must fully state the good cause in support of the motion and it must include a representation of the number of previous continuances, the reasons for the previous continuances and the dates from which the matter was previously continued.

b) Good Cause. Continuances will only be granted in the Court's discretion for good cause shown. The following, by way of example, may not automatically constitute good cause:

1. Both parties agree to the continuance.
2. The case has never been continued before.
3. The case will probably resolve if a continuance is granted.
4. Counsel's failure to be prepared for trial.
5. A party has retained or wants to retain new counsel.
6. After the trial or hearing date has been docketed, a witness (subpoenaed or not) advises being unavailable for trial. The Court expects counsel to have set the trial date with witnesses' availability known.
7. The case has been continued once, but on motion of the other party.

The Court favorably views consent motions to advance a matter for trial, subject to the Court's docket.

c) Submission of Court Order. Whenever a continuance of a trial is granted, counsel shall be prepared to submit a properly endorsed order at the hearing. The order shall provide the reason(s) for the continuance, upon whose request the continuance is granted, the new date to which the trial is continued, and such other terms as the Court may require.

iii. Continuance of a Motion. A motion may be removed from the civil docket prior to the day it is docketed only: upon the filing of a praecipe by counsel or the party who placed the motion on the docket expressly stating that "the



motion has been withdrawn”; or by submission to Chambers of a consent order properly endorsed by all counsel disposing of the motion. For any motion “withdrawn” from the Motions-Friday docket, it may only be placed back on the Motions-Friday docket by a proper notice or praecipe placing the matter on the docket consistent with these Rules, or if it will exceed thirty (30) minutes it may be re-docketed pursuant to 17<sup>th</sup> Cir. R. P.

3.3(A)(ii). If a motion is not removed from the docket as aforesaid, the motion will remain on the docket subject to a ruling by the Court, with or without counsel present. Upon filing a praecipe withdrawing a motion from the Motions-Friday docket, Chambers must be informed to avoid the case being called and a decision being rendered during the motion docket.

### **3.2 Case Setting:**

A. Procedure. Unless otherwise ordered by the Court, civil cases will be set for hearing or trial as provided herein.

B. Placing Case on Term Day Docket. The Clerk of the Circuit Court, upon issuing the summons on the complaint, shall include thereon the date the case will be heard on the Term Day Docket second from the filing date of the complaint. This may be referenced as a hearing date on the face of the summons. Otherwise, the plaintiff shall place the case on the Court’s Term Day Docket next following the filing of a responsive pleading that places the parties at issue. If a case is set on Term Day by the Clerk of the Circuit Court, but Plaintiff has not effectuated service of process of the summons and complaint, when the case is called at Term Day, the Court may set the matter to a Motions-Friday docket for status of service of process, at which time the Court may set the matter for further status or place the case on a subsequent Term Day docket.

C. General District Court and Juvenile and Domestic Relations District Court Civil Appeals. Cases before the Court on appeal from either the General District Court or from the Juvenile and Domestic Relations District Court shall be set on the Court’s regular 10:00 a.m. civil docket as it is held on the third Monday (or the next business day of the Court if that Monday falls on a day the Court is closed) following the expiration of the lower court appeal period for the purpose of setting the matter for trial.

D. Habitual Offender Cases. Hearings on habitual offender cases will be held on the first Monday of each month at 9:30 a.m. for adjudication (or the next business day of the Court if that Monday falls on a day the Court is closed).

E. Availability of Witnesses for Trial. The Court expects that, prior to counsel setting a trial date, counsel shall have conferred with all witnesses whom counsel reasonably expects to call at trial in order to obtain the witnesses’ dates so a trial date may be set consistent with the availability of such witnesses. All counsel and parties should be prepared to set the trial date at case setting. Failure to secure dates may not, without good cause, be grounds for a subsequent continuance.

F. How Trial Date is Set. Unless otherwise ordered by the Court:

- i. Term Day. Except as provided hereafter, at Term Day the parties will set the case for trial. It is the Court's preference that a date for trial is set not later than twelve (12) months from the date the initial pleading was filed with the Clerk of the Circuit Court.
- ii. Prior to Term Day through Chambers. During the two weeks prior to the Term Day on which a case has been docketed, counsel may contact Chambers Monday through Thursday, 9:00 a.m. to 4:30 p.m., to set a trial date that is within one year of the filing date; for dates other than these, the case shall remain on the Term Day docket to select a trial date. All counsel must be present in Chambers or by telephone. Counsel for the plaintiff shall, no later than three (3) business days following obtaining a date from Chambers, file a praecipe providing therein the trial date, the length of the trial, and whether the case was set with or without a jury, and at the same time serve the praecipe on all other counsel.

G. Scheduling Order. When the trial date is set on a Term Day Docket or during the week for appeals from the General District Court or Juvenile and Domestic Relations District Court, the Court will enter at that time the scheduling order provided in Section 3 of the Appendix of Forms at the end of Part I of the Rules of the Supreme Court of Virginia (Uniform Pretrial Scheduling Order). When trial is set through Chambers, the parties shall submit a Uniform Pretrial Scheduling Order for entry within fourteen (14) calendar days and include the trial date thereon.

### 3.3 Motions:

A. Setting a Motion on the Docket.

- i. Thirty Minutes or Less. Only motions that may be heard within thirty (30) minutes may be placed on the Court's Motions-Friday civil motions docket. As further provided hereinafter, the Court will proceed with a 9:30 a.m. docket and a 10:00 a.m. docket.
- ii. Motions Exceeding Thirty Minutes. All motions that will exceed thirty (30) minutes shall be placed on the regular civil docket by contacting Chambers Monday through Thursday, 9:00 a.m. to 4:30 p.m. for an available date. All counsel must be present in person or by telephone. The moving party shall, no later than three (3) business days after obtaining a date from Chambers, file a praecipe providing therein the motion hearing date and the length of the time for the motion. All pleadings or documents relevant to the motion shall be filed consistent with the type of motion to be heard and according to these Rules unless otherwise ordered by the Court or required herein.

**B. Filing Requirements for Dispositive Motions and Certain Discovery Motions – Two Week Motions.** Regarding civil motions to be heard on a Friday, if the motion is dispositive as to any count in the complaint or defense, including judgments by default, the motion and any supporting material a party wishes the Court to consider, must be filed by 4:00 p.m. two (2) Fridays before the date noticed for presentation of the motion, along with any necessary notice or praecipe placing the matter on the docket. Likewise, discovery motions, except where the motion is based on an allegation of failure to either serve a response or objection to a discovery request within the required time frame, or a failure to appear for a deposition (in these instances, see subpart (C), below), must be filed by 4:00 p.m. two (2) Fridays before the date to be set for presentation of the motion, along with any supporting material a party wishes the Court to consider. If electronic filing is utilized, the filing must be no later than 11:59 p.m. instead of 4:00 p.m. Opposition to such motion shall be filed by 4:00 p.m. the Friday before the date for presentation of the motion, along with any supporting material a party wishes the Court to consider. If electronic filing is utilized, the opposition filing must be no later than 11:59 p.m. instead of 4:00 p.m. Two-week motions do not require a copy to Chambers.

**C. Filing Requirements for Non-Dispositive Motions and Discovery Where No Response Was Made.** Regarding all non-dispositive motions or discovery motions to be heard on a Friday where the motion is based on an allegation of failure to either serve any response to a discovery request (as opposed to an alleged incomplete response), or where no objection to a discovery request was filed within the required time frame (as opposed to a challenged objection), or where there was a failure to appear for a deposition, the motion must be filed by 12:00 p.m. seven (7) calendar days before the date to be set for presentation of the motion, with a copy thereof submitted to Chambers by the filing party no later than 1:00 p.m. that same day, along with any supporting material a party wishes the Court to consider. If electronic filing is utilized, a filing on the Friday before the Motions-Friday must be no later than 11:59 p.m. and copy to Chambers is not required. However, service of the notice, motion and related material filed on the Friday before the Motions-Friday hearing must occur on all parties no later than 5:00 p.m. that Friday filing day. The opposition must be filed by 12:00 p.m. three (3) calendar days before the date for presentation of the motion, with a copy thereof submitted to Chambers no later than 1:00 p.m. that same day, along with any supporting material a party wishes the Court to consider. If electronic filing is utilized, the filing must be no later than 11:59 p.m. instead of 12:00 p.m. and copy to Chambers is not required, but service on all parties shall occur no later than 5:00 p.m. that same day.

**D. Removal of a Docketed Motion.** If after a motion has been placed on the Court's docket the movant does not want to proceed on the date docketed, the motion may be removed with a proper notice or praecipe so stating. Should a party wish to re-set the motion, proper notice and compliance with these Rules is required. Regarding the resolution of a re-opened domestic relations case see 17<sup>th</sup> Cir. R. P. 3.7(G).

**E. Reconsideration.** All motions for reconsideration will be taken under advisement. In the event the opposing party wishes to file an opposition, it shall be filed no later than ten (10) days from the filing of the motion for reconsideration. The Court will either

thereafter decide the motion on the papers without a hearing or set the motion for hearing. Counsel shall not place a motion for reconsideration on the docket without leave of Court.

F. Garnishments. The Court will hear garnishments beginning at 9:30 a.m. on a Motions-Friday docket, though counsel may also set garnishment returns on the Motions-Friday 10:00 a.m. docket. Any garnishment on the 9:30 docket not adjudicated before the Court's regular 10:00 a.m. Motions-Friday docket will be taken up on the 10:00 a.m. docket that day.

G. Orders.

- i. Consent Orders. Orders to which all parties consent to being entered shall be endorsed by all counsel and *pro se* parties and contain all necessary contact information.
- ii. Non-Suit Orders. All orders to dismiss an action without prejudice shall be endorsed on behalf of plaintiff and each defendant who has made an appearance in the case. Non-suit orders shall contain a representation as to any prior non-suits.
- iii. Pro Hac Vice Orders. All orders granting motion *pro hac vice* shall include language that states that local counsel will continue to appear at every court proceeding and endorse all filed pleadings. *Pro hac* counsel shall not endorse an order on behalf of local counsel.
- iv. Substitution of Counsel Orders. All orders for substitution of counsel shall contain the endorsement of the party for whom counsel is being substituted and shall contain language that granting the relief shall not cause a continuance of any docketed trial date, absent other good cause shown.
- v. Submission of an Order Disposing of a Pending Matter. If an order is submitted that disposes of a hearing on the docket, a proper order must be received in Chambers by close of business one (1) business day immediately preceding the hearing date. If counsel has electronically filed the order, Chambers must be informed. Otherwise, Counsel must be present at the scheduled hearing date.
- vi. Rulings from the Bench. Counsel shall submit a proper order reflecting the Court's ruling at the end of the hearing.
- vii. Final Order. An order that is a final order ending a case shall state in the title "Final Order".
- viii. Sample Orders. The Court may from time to time post sample orders on its website or that of the Clerk of the Circuit Court.

H. Notice. Proper notice to opposing counsel or *pro se* party shall be provided for all motions, as necessary, and the notice should identify the motion to be heard. To assist the Clerk of the Circuit Court to timely place a matter on the Court's docket, the hearing date shall be included in the style of the motion under the case number, and underlined for clarity.

I. Telephone Appearances. In the event Counsel or any *pro se* party wishes to appear for a Motions-Friday docket by telephone, approval by a judge is required. A request shall be made to Chambers for a decision by the presiding judge. If permission is granted, instructions will be provided to effectuate the telephone appearance. No telephone appearance will be permitted by use of a cellular phone.

### **3.4 Incidents of Hearing or Trial:**

A. Jury Instructions. No less than two (2) days business before the first day of trial, the parties shall exchange proposed jury instructions. At the commencement of the trial, each party shall submit to the Court two (2) sets of jury instructions, with appropriate citations: one set, to which the parties agree and the other set to which there is a dispute. The set of disputed instructions, as then known, must include citations to support the instructions. This requirement shall not preclude the offering of additional instructions at the trial. The parties shall also bring to court all instructions, including a set without citations thereon.

B. Foreign Language Interpretation. In the event a party requires an interpreter for a civil proceeding based on the limited English proficiency of a party or witness, to interpret any language from or to English for any hearing or trial, a request shall be made by motion and placed on a Friday civil docket no sooner than ten (10) days prior to the hearing or trial date for which the interpreter is requested. Payment or imposition as costs for the interpreter's services may be ordered as permitted by law.

The following information should be provided at the time of the request:

1. Name and contact information of attorney requesting the interpreter.
2. Language(s) required.
3. Name of defendant/party/witness.
4. Docket number(s).
5. Type of case.
6. Date/time needed.
7. Type of proceeding (motion/trial).
8. Reason for need.

If there is any change in the date or time of the hearing or trial involving an interpreter, the Court must be notified, as soon as possible, so the request may be changed or cancelled. Cancellations less than forty-eight (48) hours prior to the scheduled appearance time may result in the Court being charged the interpreter's fee, in which event the Court may not authorize payment of this fee so that the party or attorney requesting the interpreter's services may be required to pay the fee directly.

The Court has on staff a limited number of staff interpreters available through the Office of the Executive Secretary (OES) and, if necessary, contract interpreters. In the event the Court orders a contract interpreter, payment for said services shall only occur after the vendor-interpreter submits to Chambers for approval and further submission by the Court to the Supreme Court of Virginia the following information: the vendor's invoice and a completed Commonwealth of Virginia voucher required for payment of such services. Payment requests cannot be approved or forwarded to the Supreme Court for processing unless this process is followed. Counsel who requested the service that necessitated a contractor shall be responsible for ensuring compliance with the foregoing payment requirements.

C. Sign Language Interpreter. When a criminal matter is placed on the Court's docket and a party requires assistance due to hearing impairment, Counsel shall then make the request to Chambers, as soon as practicable, for an interpreter or equipment and complete the necessary forms as directed by Chambers. Services through the Virginia Department of Deaf and Hard of Hearing (VDDHH) will be arranged at no cost. VDDHH requires a minimum of ten (10) business days notice. If there is any change in the date or time of the hearing, trial or meeting involving the interpreter or equipment, the Court must be notified as soon as possible.

### **3.5 Commissioner In Chancery:**

A. Interrogatory Hearing. Regarding every judgment interrogatory summons filed with the Clerk of the Circuit Court for a hearing that is then scheduled before a Commissioner in Chancery of this Court, the Commissioner shall report, by letter or otherwise in writing, to the Court within sixty (60) days of the hearing date that was originally provided in the summons for interrogatories, stating whether the interrogatories have been satisfied and, thus, that the file should be closed. The Commissioner shall comply with all notice requirements and either party may file such exceptions as permitted by law.

B. Reserved.

### **3.6 Fiduciary Matters:**

A. Filing. To initiate a probate case, the initial filing shall be made with the Clerk of the Circuit Court, Probate Division. Any relief being requested of the Court thereafter shall be initiated by filing a Petition properly setting forth the relief sought and the bases for the relief with the required filing fee.

B. Notice. All interested parties in a fiduciary matter must receive notice of any court hearing no less than seven (7) days prior to the hearing. The motion must be filed no later than 12:00 p.m. no less than seven (7) days before the date to be set for presentation of the motion, with a copy thereof submitted to Chambers no later than 1:00 p.m. that same day, along with any supporting material a party wishes the Court to consider. If electronic filing is utilized, the filing must be no later than 11:59 p.m. and a copy to Chambers is not required.

C. Docket. The Court will hear guardianship and uncontested fiduciary matters on Friday at 9:30 a.m., immediately preceding the Court's 10:00 a.m. civil motions docket.

D. Guardian Ad Litem Fees. The guardian *ad litem* shall file the guardian's report as soon as practicable for the Court's review prior to the hearing. To avoid the Court having to take the request for fees and costs under advisement, the guardian *ad litem* shall file no less than one (1) business day before the hearing date a detailed statement of the fees and costs for which the guardian *ad litem* seeks payment.

### 3.7 Domestic Relations Proceedings:

#### A. Contested Custody Cases.

i. Pretrial Mediation. In accordance with Title 20 of the Code of Virginia, the parties will be required to attend a mediation evaluation session, except where there are credible allegations of domestic violence. Mediation evaluations can be undertaken by any certified mediator acceptable to the parties. A list of mediators certified by the Supreme Court of Virginia can be found on the Virginia Supreme Court website at <http://webdev.courts.state.va.us>. Mediation services are also available at no cost through the Arlington Juvenile and Domestic Relations District Court mediation coordinator. The mediator's report shall be filed at least thirty (30) days before the trial date.

ii. Seminar Attendance. Both parents will be required to attend the seminar regarding parenting presented by Northern Virginia Family Services. The Court will consider motions to waive attendance by one or both parties in the event there are "special circumstances" which would excuse their attendance.

B. Child Support Calculations. The Court prefers counsel to exchange, at least five (5) calendar days prior to a *pendente lite* hearing that involves child support, documented evidence that is expected to be used at the hearing supporting:

- i. Current income.
- ii. Work related childcare expenses.
- iii. Healthcare expenses for the child.
- iv. Calculation of presumptive amount of child support.
- v. Support for a claim for deviation from child support guidelines.
- vi. Monthly income and expense worksheet.

C. Divorce Proceeding Case Setting. All contested divorce proceedings will be set on a Term Day docket approximately four (4) months after the initial filing date to set a trial date. Pre-trial conferences in equitable distribution cases will also be set at Term Day. The Court may also, at any time prior to trial, order a pretrial conference in other domestic relations

cases. Parties are also subject to the case setting procedures addressed in 17th Cir. R. P. 3.2. If the parties set a trial date through Chambers, any pretrial conference then known to be required will also be set at that time. Cases that are expected to last more than four (4) days will, at the discretion of the Chief Judge, be assigned to a specific judge, and all matters, including pre-trial motions, will be heard by that judge.

D. Uncontested Ore Tenus Hearing. The Court will set, by a letter notification to the parties as necessary, all uncontested *ore tenus* hearings on the civil docket on Tuesday or Wednesday at 9:30 a.m. The Court expects to set the hearing within ninety (90) days from the filing date. An information packet explaining the uncontested divorce procedure is available at the Office of the Clerk of the Circuit Court or on the Clerk's website.

E. Equitable Distribution Cases – Pretrial Conference. The Court requires a pre-trial conference with one of the judges to be held no later than sixty (60) days before trial. At the pre-trial conference, counsel shall bring with them a jointly prepared document listing all the items required by Virginia Code §20-107.3 that are undisputed and any stipulations. Each counsel should also provide a list of disputed items, which must include the items required for the Court's consideration under Virginia Code § 20-107.3. Counsel for the parties shall exchange the above mentioned documents at least one (1) business day before the scheduled pre-trial and be prepared to meaningfully discuss settlement. Counsel should come to pre-trial conference with authority for settlement and/or the client available by telephone for settlement authority.

F. Final Decree. The party seeking entry of a final decree of divorce shall submit the decree to the Court no less than ten (10) calendar days before the *ore tenus* hearing should the party prefer to have the final decree entered at the hearing.

G. Case Closing or Re-Opening. All cases will be closed at the end of twenty-one (21) days after the date the Court enters the final decree or final order. A party wishing to modify or enforce an order after the twenty-one (21) days will be required to file a notice requesting the case be re-opened and pay the fee required by the Clerk of the Circuit Court. Cases re-opened will be assigned a new case number and all pleadings filed thereafter shall cite to the new case number. If a re-opened case is resolved, Counsel must submit a final order at or before the scheduled hearing date.

H. Reserved.

#### **Part 4** **Electronic Filing**

4.1 **Purpose:** The Court has determined that to promote judicial efficiency and economy, electronic filing shall be permitted. Ongoing implementation of the electronic filing system requires a stepped process (such that all users of the Court will not have immediate access), but with the goal to make it fully available to all. This goal will be achieved after the Court is satisfied with the efficiency of electronic filing process and after sufficient security procedures have been developed, tested and implemented.



**4.2 Procedure:** The Clerk of the Circuit Court may establish electronic filing procedures pursuant to Va. Code Ann., Sec. 17.1-258.3, as amended, or Va. Sup. Ct. R. 1:17(d). In the event there is non-compliance with the filing requirements under these Rules or the Clerk's procedures, the filing is subject to be rejected by the Clerk of the Circuit Court (see 17<sup>th</sup> Cir. R. P. 4.5). Counsel shall comply with Va. Sup. Ct. R. 1:17, Title 17.1, Chapter 2, Article 4.1 of the 1950 Code of Virginia, and all other applicable Rules of the Supreme Court of Virginia and laws of the Commonwealth of Virginia governing filings with a circuit court.

**4.3 Permitted Filers:** Electronic filing will be available to active members of the Virginia State Bar and attorneys admitted by the Court *pro hac vice* in any case before the Court who have properly acquired a user name and password. Filing of an electronic document through user name and password of counsel of record, or that of an employee, agent or member of that counsel's office, will be considered as a pleading filed by the attorney of record for the represented party.

**4.4 Filing Requirements:**

A. **Initiating a New Case.** All cases initiated with the Court shall occur by filing the necessary initial filing in paper form and, in all civil cases, the payment of required filing fees.

B. **Filings After the Initial Pleading.** After the initial filing, all subsequent filings may occur through the electronic filing system and all pleadings shall be filed as separate electronic documents, so that a notice, motion, memorandum, proposed order, or other pleading are separate electronic documents. All filings shall be in Portable Document Format (PDF). All users shall follow the filing procedures established by the Clerk of the Circuit Court and published by the Clerk within the electronic filing system.

C. **Case Number.** The proper case number shall be placed in the style of the pleading. Should the matter be a civil action that has been re-opened, the proper suffix shall be included. In a criminal action, the proper suffix shall be added to the case number to reflect the proper matter subsequent to the final disposition.

D. **Motions.** A separate notice or praecipe setting the matter for hearing must be filed at the time the motion is filed and must contain the date and time of the hearing as well as a statement of what motion or motions are scheduled for that date. To assist the Clerk of the Circuit Court to timely place a matter on the Court's docket, the hearing date shall be included in the style of the motion under the case number, and underlined for clarity. This shall also be done on any memorandum that is filed. Exhibit(s) to a motion or memorandum shall be placed at the end of (thus, within) the pleading referencing the exhibit(s), with each exhibit separately tabbed with a page separation that identifies the exhibit number. Counsel is encouraged to upload case law that is referenced in a pleading. All motions and oppositions to motions shall be accompanied by a proposed order as a separate uploaded pleading. See also, 17<sup>th</sup> Cir. R. P. provisions 2.3 (criminal case motion) and 3.3 (civil case motion.)

E. Attachments. The electronic filing system permits the attachment of documents to a pleading, such as exhibits or case law. The attachment function shall not be used to attach one pleading to another, such as a memorandum to a motion, an order to a motion, and the like. Each pleading shall be filed as a separate upload to the electronic system.

F. Orders. All consent orders electronically submitted for entry require endorsement by all counsel. An electronic signature is acceptable pursuant to Virginia Code Section 17.1-258.4, as amended.

**4.5 Rejected Filing**: Counsel should enquire of the Clerk of the Circuit Court the possible reasons for rejection. If there is non-compliance with the electronic filing requirements, the Clerk of the Circuit Court will provide an electronic notification of non-compliance or rejection of the pleading, and the filing party shall have forty-eight (48) hours from the Clerk's notification to properly re-file the pleading for the filing to relate back to the filing date and time of the rejected pleading. No changes shall be made to the pleading except those limited to bring the pleading into compliance with the filing requirements. When the pleading is re-filed, the re-filed pleading shall be served on all parties. Any party may request a copy of the rejected pleading from the Clerk of the Circuit Court.

**4.6 Proper Access to Electronic Filing System**: Access to the Court's electronic files and the filing system implemented by the Clerk of the Circuit Court shall be only for the purpose and functions of filing pleadings, reviewing pleadings to which access has been granted, and to participate in the court proceedings involving the filed case. A violation of the stated purpose or access to the Court's electronic filing system for the purpose of impairing access by others or for purposes other than the proper adjudication of a pending matter shall subject the violator to a contempt of court proceeding.

**4.7 Reserved**.

## **Part 5** **Civil Commitment Hearings**

**5.1 Conducting the Hearings**: The following provisions shall govern civil commitment hearings under Code of Virginia, Title 37.2, Chapter 8 over which a special justice, appointed by the Chief Judge of the 17<sup>th</sup> Judicial Circuit Court, presides.

A. Hearing Date and Location. Beginning no later than August 1, 2014, each special justice appointed by the Court shall, regarding persons detained under a Temporary Detention Order ("TDO") and held within Arlington County, conduct the hearings at the facility in Arlington County where the respondent is being held, when the facility makes a suitable space available for hearings. The public hearings shall be set on Monday and Thursday at 9:00 a.m. until completed, or such other days or time as the Court may otherwise order. Should a Monday hearing date be a legal holiday or a date the Court is otherwise closed, the hearing shall take place on the next day the Court is open. If the Thursday hearing date be a legal holiday the hearing shall take place on the Wednesday immediately preceding the Thursday, but if the Court

is closed for any other reason on Thursday, the hearing shall occur on the next day the Court is open. Any appeal of a decision by the special justice shall be conducted at the Arlington County Circuit Court, thereby not impeding the respondent's right to a trial by jury.

B. Venue. Pursuant to the Code of Virginia, Title Sec. 37.2, Chapter 8, each special justice appointed by the Court has jurisdiction to conduct adult civil commitment hearings for any person detained pursuant to a TDO in Arlington regardless of the person's place of residence or location immediately prior to detention.

C. Concurrent Jurisdiction of Special Justice. Pursuant to Va. Code Sec. 37.2-820, as amended, for any person detained under a TDO issued by an Arlington magistrate pursuant to Title 37.2, but detained at a facility outside of Arlington County pursuant to the TDO, the special justice appointed by the Court has concurrent jurisdiction with the special justice appointed by the Chief Judge of the Circuit Court where the person is detained, to conduct the adult civil commitment hearing at that facility. The special justice appointed by this Court may defer to the special justice appointed by the Chief Judge of the Circuit Court where the person is detained to conduct the hearing at that facility.

D. Opening Remarks by Special Justice. At the start of each hearing, the special justice shall include in his opening remarks to the respondent that the hearing is a court proceeding being conducted at the facility for the respondent's convenience and open to the public, unless otherwise permitted.

5.2 Reserved.