

Petersburg Circuit Court: Docket Control Procedures in Civil Actions and Causes

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A. Trial Dates and Scheduling Orders

- 1. Applicability of Scheduling Order.** Scheduling orders are preferred in all civil actions except in cases handled summarily, e.g., name changes, and cases that by their nature are attendant with delays over which the Court has little control, e.g., receiverships and suits where the object is the sale of land.
- 2. Cases in Which One or All Parties are Represented by Counsel.** Within thirty days of the filing of a responsive pleading to a bill of complaint or the proper papers in a case appealed from a District Court, counsel for all parties are encouraged to select a trial date approved by the Court Administrator and to present a scheduling order to the Court. The Court Administrator has authority to schedule a trial date for cases (i) without a jury and (ii) with a jury where the parties are agreeable to a second or third place on the docket. For cases in which the parties request a first place on the docket, a scheduling conference is required. In the absence of an order presented by agreement of counsel and approved by the Court, the Court will enter a pre-trial scheduling order as set forth in Rule 1:18B.
- 3. Scheduling conference.** If a scheduling order is not timely filed or if counsel notify the Court Administrator that a trial date with number one priority is desired, notice of a scheduling conference will be sent to counsel of record and unrepresented parties. Trial may be scheduled for a second, third, or fourth priority on the docket and a scheduling order submitted prior to the scheduling conference. Scheduling conferences will take place on term day.
- 4. Cases in Which All Parties are Proceeding *Pro Se*.** When the parties are at issue, when a party is in default, or when the case is appealed from a District Court and the papers are received by the Clerk, the Court Administrator may assign a trial date and so advise the parties.
- 5. Default.** When a defendant has been in default for three months and no hearing on a judgment by default has been scheduled, the Clerk will notify counsel for the plaintiff or an unrepresented plaintiff of the default, and

the Court Administrator will schedule a hearing for default judgment absent good cause not to do so.

6. **Cases without Scheduling Orders.** In those cases in which pretrial scheduling orders are not entered, the Court will be guided by the standards, principles and objectives set out in and reasonably inferred from the Uniform Pretrial Scheduling Order in resolving disputes concerning discovery and other pretrial matters.
7. **Continuance.** The granting of a continuance does not otherwise affect the scheduling order as to cut-off dates for discovery, filing of witness and exhibit lists, etc., unless the Court specifically modifies the scheduling order.

B. Matters Pertaining to Trial

1. **Jury Instructions.** Counsel shall exchange copies of proposed instructions and provide copies of such instructions or the references thereto to the Court at least forty-eight (48) hours before trial. This rule shall not preclude the offering of additional instructions at trial where reasonable. Counsel will not be precluded from withdrawing instructions at trial.
2. **Starting Time.** Trials begin at 9:00 a.m.
3. **Verdict Forms.** It shall be the duty of counsel for the plaintiff or an unrepresented plaintiff to prepare a verdict form and to provide opposing counsel or unrepresented party a copy thereof at the time of exchange of instructions.

C. Motions and Briefs

1. **Motion to Continue.** A continuance shall be granted only for good cause. See the Court's written continuance policy for further guidance.
2. **Motion *in Limine*.** The Court will not hear motions *in limine* requiring more than five minutes of argument on the morning of trial.
3. **Motions in general.** All motions shall be scheduled and heard by the courts using the following procedures:
 - (a) **Scheduling.** Counsel of record may schedule hearings on written or oral motions by contacting the Court Administrator.

(b) **Notice.** Reasonable notice of presentation of a motion shall be served on counsel of record and unrepresented parties. Counsel or unrepresented parties shall make a reasonable effort to confer to resolve the subject of the motion and to determine a mutually agreeable hearing date and time.

(c) **Hearing.** Except as otherwise provided herein, upon request of counsel of record for any party, or an unrepresented party, or at the Court's request, the Court shall hear oral argument on a motion. Argument on a motion for reconsideration or any motion in any case where a *pro se* incarcerated person is a party shall be heard orally only at the request of the Court. The Court may place reasonable limits on the length of oral argument. A hearing may be conducted by telephone conference call if leave of court is first obtained.

4. **Filing and Service of Briefs.** Counsel of record may elect, or the Court may require, the parties to file briefs in support of or in opposition to a motion. Any such briefs should be filed with the Court and served on opposing counsel of record sufficiently before the hearing to allow the Court to consider the issues involved. Absent leave of court, if a brief in support of a motion is five or fewer pages in length, the required notice and the brief shall be filed and served at least 10 days before the hearing and any brief in opposition to the motion shall be filed and served at least 5 days before the hearing. If a brief will be more than five pages in length, a briefing schedule may be determined by the Court at the request of the parties. Absent leave of court, the length of a brief shall not exceed twenty pages, double-spaced.

D. Orders and Dismissal

1. **In general.** Orders reflecting the Court's ruling should be prepared promptly or submitted at the time of the ruling and shall reflect the date the ruling was rendered or the matter heard.

2. **Final Orders.** Within thirty days of the taking of a non-suit or a final settlement, counsel for the parties or unrepresented parties shall deliver the final order to the Clerk. The failure to deliver timely an appropriate order to the Clerk may result in the Court entering an order *sua sponte*.

3. **Failure to Serve.** If an action at law is not served within the time provided by Supreme Court Rule 3:5, the Clerk shall prepare a notice of discontinuance and send such notice to counsel for the plaintiff or to an unrepresented plaintiff.

E. Settlements Involving Infants and Others Under Disability ([Va. Code Ann. 8.01-424](#)):

1. **Filing.** All petitions must be filed with payment of appropriate Clerk's fees before a hearing date is assigned.

2. **Information regarding injury.** The Court should be provided with medical records or reports that allow the court to determine the nature and extent of injuries, the nature and course of treatment, the resolution of the injury, the existence of any permanent injury, and the necessity of any future treatment.

3. **Payment of Bills for Health Care Services.** Bills for health care services are expected to be paid from any available collateral sources, such as medical payments coverage and health insurance, rather than from the settlement proceeds.

4. **Payment of Proceeds into Court.** Unless otherwise directed by the Court, it is the policy of the Court that all net proceeds be paid to Bank of Southside Virginia, General Receiver, to be held for the benefit of the child.