

NORFOLK CIRCUIT COURT CIVIL RULES

1. Purpose

To provide for the expeditious and just resolution of civil cases, to promote uniformity and simplicity in procedure, fairness in administration, and the elimination of unjustifiable expense and delay, and to enhance the efficiency of the system of justice in the Circuit Court of the City of Norfolk, the Circuit Judges have unanimously adopted the following rules for civil cases.

2. Policies

- A. General. Once a case is filed, the Court is responsible for ensuring its prompt resolution. The expeditious conclusion of civil cases is in the best interests of the bench, the bar, and the parties.
- B. Time Goals. The Court encourages the prompt resolution of cases filed here. In furtherance of this policy, the Court has adopted the goal of concluding all civil cases, except by leave of court and in suits for divorce, within twelve months of filing. The goal for concluding suits for divorce is eighteen months from the date of filing.
- C. Access to Judges. The long-standing policy of prompt access to judges of the Court in person and by telephone for motions and other matters dealing with cases has been beneficial to the bench, bar, and litigants. This policy remains unchanged.
- D. Continuances. A uniform continuance policy is essential to the efficient management of the docket. The Court looks with disfavor upon motions for continuances. The judges have determined that all motions for continuances will be directed to designated judges to establish a uniform, consistent continuance policy. When practicable, motions to continue preassigned cases will be directed to the assigned judge. The attached Civil Continuance Policy contains a list of reasons that are normally not acceptable for the granting of continuances. This list is offered as guidance to the bench and bar.

CIRCUIT COURT OF NORFOLK – CIVIL CONTINUANCE POLICY

A continuance of a civil case will only be for good cause shown and with the approval of the Court. When practicable, motions to continue pre-assigned cases will be directed to the judge to whom the case is assigned. If the case has not been pre-assigned the motion must be made to one of the two civil continuance judges.

If a continuance is granted and the Court does not prepare the order, counsel must submit the order within fourteen days.

The grant or refusal of a continuance rests in the sound discretion of the Court. However, good cause for a continuance does not normally include the following:

1. Counsel for both parties agree to the continuance.
2. The case has never been continued before.
3. The case has been continued once, but on the motion of the other party.
4. Discovery has not been completed.
5. A party has retained new counsel.
6. A party cannot be found.
7. A witness cannot be found and counsel cannot give satisfactory assurance to the Court that the witness can be found if the case is continued.
8. A party wants to file a third party claim, cross-claim, or counter-claim if the existence of the claim was known at the time the trial date was set.
9. The plaintiff has not yet recovered from injuries and the case has once been continued for that reason.
10. A party or witness is scheduled to be on vacation, a business trip, or have elective medical care.
11. A witness is otherwise unavailable and there is sufficient time to take his deposition.
12. A witness is otherwise unavailable; there is not sufficient time to take his deposition; and his unavailability was reasonably foreseeable.
13. Counsel wish to use the trial date for mediation or a settlement conference.

A continuance should not be granted if the reason for the request was within the control of counsel or reasonably foreseeable. Thus counsel should subpoena witnesses, especially expert witnesses, promptly after the trial date is set. It is reasonably foreseeable, for example, that a witness will be unavailable if he is subpoenaed only two weeks before trial.

The Court may be more receptive to a continuance request made well in advance of trial, as this allows the Clerk's Office to set another case for trial on that date. The Court is likely to be most unreceptive to a continuance request made within a month of trial as there will not then be sufficient time to set another case for trial on that date.

NORFOLK CIRCUIT COURT CIVIL RULE 1

PROCEDURES IN DIVORCE, AFFIRMATION, AND ANNULMENT SUITS (Revised effective January 1, 2020)

A. Purpose

This rule is intended to reduce the expense and delay of obtaining uncontested divorces, to allow all custody issues to be resolved in one hearing and to afford them the dignity many parties believe they warrant, and to provide an appropriate forum for those cases in which property interests are in dispute.

B. Suits to Which Applicable

1. Applicability. This rule applies to suits for divorce, affirmation, annulment, and equitable distribution under *Code of Virginia* §20-107.3(J).
2. Definition of Uncontested Suits for Divorce. A suit for divorce is uncontested when (a) the defendant has filed a waiver pursuant to *Code of Virginia* §20-99.1:1 or an answer admitting all allegations of the complaint, (b) the defendant is in default under Supreme Court Rule 3:19, or (c) the parties have entered into a marital agreement complying with *Code of Virginia* §20-155 that resolves all issues.

C. Procedure and Scheduling

1. Contested Suits. The trial will be set by scheduling order under Rule 2(A). The Court will hear all such suits *ore tenus*; provided that the Court may refer equitable distribution issues to a Commissioner in Chancery on its own motion or for good cause shown.
2. Uncontested Suits. Such suits to be heard *ore tenus* may be set for trial on the docket on any day acceptable to the Clerk, after proper notice to the defendant, if necessary; provided, that in such suits where the defendant need not be given notice of the hearing, the suit may be tried any time convenient for counsel and the Court without being put on the docket; provided, further, that, except by leave of Court, such suits to be decided on depositions or affidavits may be set for trial on the docket only if the defendant need be given notice of the hearing. Otherwise, final decrees in such suits to be decided on depositions or affidavits will be filed with the Clerk to be presented to the Court. Counsel will present to the Court before the trial begins a proposed final decree of divorce, form VS-4, and, if there is one, the separation agreement.

D. Provisions Concerning Custody, Support, and Equitable Distribution

1. Suits in which Custody is contested. No trial or hearing (except interim *pendente lite*) will be held until a qualified guardian *ad litem* has been appointed.
2. Pendente Lite Custody Hearings. The Court finds that the best interests of the child, the parents, and the Commonwealth are served when the child's custody is determined at one hearing. A *pendente lite* custody hearing should not be scheduled unless the parties have attended or are scheduled to attend a program on the effect of divorce on children as required by *Code of Virginia* §20-103(A), and there are circumstances posing a serious threat to the child's physical, mental, emotional, or moral well-being. At any such hearing, counsel for the moving party should be prepared to proffer to the Court evidence of the serious threat posed by the existing custody arrangement. If the Court finds the proffer insufficient the hearing will be over.
3. Suits in which Child Support is sought. Counsel for each party present at the trial or hearing will present a completed child support guidelines worksheet.
4. Suits involving Equitable Distribution. Fifteen days before trial or hearing, each counsel (as defined in Rule 2(G)(1)(b)) will deliver to opposing counsel and file with the Clerk, on a form approved by the Court, an inventory of the assets and debts of which his client seeks equitable distribution. The Court ordinarily will not receive evidence about any asset or debt not so identified unless it would cause no surprise or prejudice to the opposing party and the failure to identify the asset or debt was through inadvertence.

E. Final Decrees

Except as the Court may otherwise direct in a particular suit, final decrees will conform to this section.

1. Parties making an Appearance. No award or reservation of spousal support or equitable distribution may be made to the plaintiff or to a defendant who makes an appearance unless requested in the appropriate pleading or an amendment thereto.
2. Defendant makes no Appearance. Spousal support and equitable distribution will be reserved to a defendant served by order of publication, order of posting, or substituted service outside Virginia who makes no appearance. Spousal support and equitable distribution will otherwise be denied to a defendant who makes no appearance.
3. Transfer pursuant to *Code of Virginia* §20-79(c). Except as hereinafter provided, if neither party lives in the City of Norfolk when the final decree is submitted, and the final decree provides for child custody, visitation, or support, or spousal support, or any reservation of any of these matters, the final decree will contain a transfer clause pursuant to *Code of Virginia* §20-79(c). The Juvenile and Domestic Relations District Court or Circuit Court to which the

transfer is made will be that of the city or county of residence of the children or the recipient of support. No such provision should be included in a final decree of divorce if either (a) at the time the decree is presented to the Court both parties are non-residents of Virginia, or (b) child or spousal support is reserved as required by section (2) of this part (E).

4. Transfer pursuant to Code of Virginia §20-107.3(L). If neither party lives in the City of Norfolk when the final decree is submitted, and the final decree contains an award of equitable distribution or affirms, ratifies, and incorporates a marital agreement that has provisions concerning the parties' assets or debts, the final decree will transfer to the Circuit Court where one of the parties then lives, the authority to make additional orders pursuant to *Code of Virginia* §20-107.3(K) or to carry out or enforce the marital agreement.

5. Submission of Final Decree. The final decree will be submitted within thirty days of the Court's ruling on the issues.

6. Submission by Depositions or Affidavits. The party or corroborating witness must appear and give testimony *ore tenus* if the Court has twice rejected the party's or corroborating witness's deposition or affidavit. Counsel must appear in person to present the final decree if the Court has twice rejected the proposed final decree.

F. Waiver or Modification

The Court may waive or modify the terms of this rule in a particular case to prevent undue hardship, to preserve the substantive rights of the parties, or to attain the ends of justice.

G. Effective Date

This rule as amended is effective July 1, 2001; additional amendments to this rule have been adopted effective September 1, 2003, January 1, 2004, July 1, 2005, January 1, 2006, July 1, 2012, July 1, 2014, May 1, 2017, July 1, 2018, and January 1, 2020.

NORFOLK CIRCUIT COURT CIVIL RULE 2

PROCEDURES IN CIVIL ACTIONS (Revised effective January 1, 2020)

A. Setting Trial Dates, Notice of Settlement, Default, and Failure to Serve

1. Cases to Which Applicable¹. This section applies to all civil actions the trial dates of which were heretofore set by the praecipe system and to suits for divorce.
2. Cases in Which all Parties are Proceeding Pro Se. When all parties in a case are proceeding *pro se*, no scheduling order will be required. 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 Clerk will advise the parties of the trial date; however in an appeal from a District Court in which a guardian *ad litem* was appointed, the guardian *ad litem* may prepare a scheduling order.
3. Cases in Which One or All Parties are Represented by Counsel.
 - (a) Filing of Scheduling Order. In an unassigned case (except suits for divorce and suits in which the Division of Child Support Enforcement is a party), within thirty days of the filing of (i) a responsive pleading to a complaint or (ii) the proper papers in a case appealed from a District Court, counsel for all parties will select a trial date approved by the Clerk and they will complete, endorse, and file the scheduling order with the Clerk. In suits for divorce, counsel for all parties will select a trial date approved by the Clerk, and they will complete, endorse, and file the scheduling order with the Clerk within six months of the filing of a responsive pleading. If a continuance is granted in any such case, a scheduling order (or, if the Court orders, a supplemental scheduling order (see Form 4 in the Appendix of Forms)) reflecting the new trial date will be submitted within fourteen days of the granting of the continuance. Plaintiff's counsel has the responsibility for preparing and circulating the scheduling order; however, if the plaintiff is *pro se*, the defendant's counsel will do so. In an assigned case, the scheduling order will be completed by the docket administrator after a pre-trial conference.

¹ There are two classes of cases that are not proper for scheduling orders: first, those that are ordinarily handled summarily, e.g., adoptions, asset forfeitures, name changes, garnishments, approvals of infant and wrongful death settlements, appointments of guardians, and expungements; and second, those that by their very nature are attendant with delays over which the Court has little control, e.g., receiverships and suits formerly in equity, the object of which is the sale of land.

All actions formerly at law that were not disposed of summarily were previously set for trial under the praecipe system. The following kinds of suits formerly in equity were usually set for trial under the praecipe system: appeals from the Juvenile and Domestic Relations District Court, administrative agency appeals, arbitration and award, cancellation or reformation of writings, declaratory judgments, fraud, fraudulent conveyances, injunctions, interpleader, mechanic's liens, nuisances, specific performance, trusts, and waste. Other kinds of suits in equity were usually referred to a commissioner in chancery, although, on occasion, the Court would hear one *ore tenus*.

(b) Failure to File Scheduling Order. If a scheduling order is not timely filed, the Clerk will send an order to attend a scheduling conference, in a form approved by the Court, to counsel for all parties.

4. Form and Contents of Scheduling Order. The form scheduling order for suits to be heard by a Commissioner in Chancery is found in the Appendix of Forms as Form 2. Acceptable forms for other cases may be found in the Appendix of Forms as Form 3 or in the Appendix of Forms at the end of Part One of the Rules of the Supreme Court of Virginia. Except by leave of court, the date for trial will be within one year of the filing of the complaint, or in civil actions appealed from a District Court one year from the filing of the appeal papers; provided that in suits for divorce the trial will be within eighteen months of the filing of the complaint.

5. Responsive Pleading.² As used in section (3)(a) of this part (A), “responsive pleading” means the initial pleading filed by the defendant in response to the complaint. The term “responsive pleading” includes, but is not limited to, answers, demurrers, pleas in bar, and motions to dismiss or for a bill of particulars. If there is more than one defendant, the time stated in section (3)(a) of this part (A) begins to run with the filing of the first responsive pleading.

6. Notice of Settlement. Within thirty days of the taking of a non-suit or a final settlement of any civil action to which this rule applies, counsel for the parties will deliver the appropriate final order to the Clerk; provided that if a non-suit is taken or a case settled thirty or fewer days before trial, counsel must deliver an order, letter, or email confirming the non-suit or settlement to the Clerk no later than 4:00 p.m. the day before trial. The failure to deliver an appropriate order, letter, or email timely to the Clerk may result in the Court entering an appropriate order *sua sponte*.

7. Default. When a defendant has been in default for three months, the Clerk will notify counsel for the plaintiff of the default and set a pre-trial conference.

8. Failure to Serve. If any civil action is not served within the time provided by Supreme Court Rule 3:5(e), the Clerk will prepare a notice of discontinuance and send such notice to counsel for the plaintiff.

B. Assignment of Cases to Judges

1. Assignment at Filing. Any civil action for injury under the Federal Employer’s Liability Act or the Jones Act, or for professional malpractice, products liability, or defamation, will be assigned to a Judge upon filing by the docket administrator.

2. Assignment After Trial Date Set. An appeal pursuant to Part 2A of the Rules of the Supreme Court of Virginia or of a judgment in a proceeding brought under *Code of Virginia* §16.1-283 will be assigned to a Judge by the docket administrator after the trial date is set.

² This is a definitional section only.

3. Assignment by Request. At the time a case is filed, or at any time thereafter, any counsel may, by letter to the Chief Judge giving good cause, request that a case be assigned. If the Chief Judge grants the request the docket administrator will assign the case to a Judge.

4. Miscellaneous. Subject to the approval of the Chief Judge, a Judge may assign a case to himself if he believes he has had substantial involvement with pre-trial matters and ought to try the case, or for any other reason the Judge believes appropriate. A case that counsel expect will take more than two days to try will be assigned. If exceptions are filed to the report of a Commissioner in Chancery, the hearing on the exceptions will be assigned to a Judge.

C. Motions and Briefs

1. To Continue. A continuance shall be granted only for good cause and not merely by the agreement of counsel. Good cause does not normally include the reasons listed in the Court's written civil continuance policy.

2. In Limine. Hearings on such motions may be conducted by telephone conference call if leave of Court is first obtained. Under no circumstances will the Court hear motions *in limine* requiring more than five minutes of argument on the morning of trial.

3. Friday Motions. Except as provided in Supreme Court Rule 4:15, any motion to be heard on a Friday will be filed in the Clerk's Office no later than the preceding Friday at noon unless a Judge authorizes a later filing, and, except in emergencies, counsel requesting the hearing will give opposing counsel at least seven days notice of the motion. There is a time limit of sixty minutes for motions (including *pendente lite*) to be heard on Fridays. Before setting hearings on motions, counsel must attempt to confer to resolve the subject of the motion and to determine a mutually agreeable hearing date and time.

4. Briefs. Briefs will not be longer than twenty pages (8 1/2" x 11") double spaced unless leave of court is obtained for a longer brief. If a brief is filed in support of or in opposition to any demurrer, plea, or motion in any unassigned case, counsel must request that the docket administrator assign the hearing of such matter to a Judge.

5. To Reconsider. A copy of the motion will be sent to the Judge who made the original ruling. No such motion will be placed on the docket without the consent of that Judge.

D. Discovery and Depositions to be Used at Trial

1. Filing with Court. No discovery will be filed with the Court unless it is subject to a motion to compel, an exhibit to some other motion, or ordered by the Court.

2. Objections to Depositions. Any objections to the testimony in a deposition counsel cannot resolve will be brought before the Court by motion. Before filing any such motion counsel must attempt to confer to resolve such objections. Under no circumstances will the Court rule on objections to a deposition on the morning of trial.

E. Orders and Decrees

1. General. Orders reflecting the Court's rulings should be prepared promptly and will reflect the name of the Judge who made the ruling and the date the ruling was rendered or the matter was heard. When practical, orders will be submitted to the Court on the day the ruling is made.
2. Final Orders. To assist the Clerk in closing concluded cases, an order described in Supreme Court Rule 1:1(b) will be titled "Final Order."
3. Decrees of Reference. Counsel will recommend to the Court a Commissioner in Chancery from among those appointed by the Court.
4. Substitution of Counsel. Any order allowing the substitution of counsel will state the existing trial or Commissioner in Chancery's hearing date, if there is one, and whether new counsel is available to try the case on that date.

F. Matters Pertaining to Trial

1. Jury Instructions. Counsel for the parties will, at the beginning of a civil jury trial, deliver to the Judge the originals of all agreed instructions, and copies of all contested instructions noting thereon the authority relied upon for such instructions. Counsel will exchange copies of proposed instructions at least two days before trial. Rather than exchanging actual copies of proposed instructions, counsel may notify opposing counsel in writing of the numbers of the instructions he expects to use from the Virginia Model Jury Instructions; provided, however, that if any change is made to the model instruction a copy of the instruction to be offered will be given to opposing counsel as well as any other instructions to be offered not contained in the Virginia Model Jury Instructions. This rule does not preclude the offering of additional instructions at trial, nor will counsel be precluded from withdrawing instructions at trial.
2. Pre-Trial Matters. Counsel will arrive at Court by 9:00 a.m. the day of a jury trial to discuss pre-trial matters with the trial judge. Trials begin at 9:30 a.m.
3. Verdict Forms. It is the duty of counsel for the plaintiff to prepare a verdict form substantially similar to Form 1 in the Appendix of Forms. Either counsel proposing a different verdict form has the duty of preparing it.

G. Miscellaneous

1. Definitions. As used in this rule:
 - (a) Clerk. "Clerk" includes the Clerk of the Court or any of his deputies.
 - (b) Counsel. Except in section (3)(a) of part (A), "Counsel" includes a *pro se* party.

- (c) Gender. The masculine gender includes the feminine.
- (d) Order and Decree. “Order” may include “decree” and *vice versa*.
- (e) Suit for Divorce. Includes suits for divorce, affirmation, annulment, or equitable distribution under *Code of Virginia* §20-107.3(J) other than those defined by Rule 1(B)(2).

2. Guardian *ad litem*. In any appeal of a case from a District Court, the guardian *ad litem* appointed in the District Court will continue to serve on the appeal of the case in this Court unless relieved by order of this Court.

3. United States as a Defendant. In any civil action in which the United States is named as a defendant, if federal law allows the United States to file a responsive pleading beyond the time allowed by Supreme Court Rule 3:8, the United States may file its responsive pleading within the time allowed by federal law without obtaining leave of Court.

4. Civil Cover Sheet. Counsel for the plaintiff must attach a completed civil cover sheet (on a form to be provided by the Clerk) to the initial pleading filed.

5. Waiver or Modification. The Court may waive or modify the terms of this rule in a particular case to prevent undue hardship, to preserve the substantive rights of the parties, or to attain the ends of justice.

6. Effective Date. This rule shall be effective October 8, 1998. Amendments to this rule have been adopted effective July 6, 1999, January 1, 2000, July 1, 2000, February 8, 2001, July 1, 2001, February 1, 2002, September 1, 2003, January 1, 2006, July 1, 2007, July 1, 2008, July 1, 2012, and January 1, 2020.

APPENDIX OF FORMS

- | | |
|---------------|---|
| Form 1 | Verdict Form |
| Form 2 | Scheduling Decree for Causes Referred to a Commissioner in Chancery |
| Form 3 | Scheduling Order for Law Actions and for Chancery Causes Not Referred to a Commissioner in Chancery |
| Form 4 | Supplemental Scheduling Order |
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Form 1 Verdict Form

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

JOHN A. SMITH,

Plaintiff,

v.

Civil No. CL_____

GEORGE B. BROWN,

Defendant.

VERDICT

We, the jury, find for the plaintiff and fix his/her damages at \$_____.

Foreperson

OR

We, the jury, find for the defendant.

Foreperson

(Rev. 7/12)

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

_____,
Plaintiff,

v.

Civil No.: CL ____ - ____

_____,
Defendant.

**SCHEDULING DECREE FOR CAUSES REFERRED TO A
COMMISSIONER IN CHANCERY**

Pursuant to Norfolk Circuit Court Civil Rule 2 , IT IS DECREED:

1. The Commissioner's hearing will commence on _____,
202__ at _____ a.m./p.m. A continuance will only be granted by the Court or
Commissioner for good cause. Good cause does **NOT** normally include those reasons stated in
the Court's written civil continuance policy. If a continuance is granted counsel will promptly
reschedule a hearing date and submit an appropriate scheduling order within fourteen days of the
granting of the continuance.

2. All discovery will be completed thirty days before the Commissioner's hearing.
"Completed" means that (1) interrogatories and requests for production or admission
must be served so that responses thereto will be due on or before the cut-off date, (2) all
depositions upon written questions or oral examination, excluding de bene esse, be completed by
the cut-off date, and (3) motions to compel shall be heard before the cut-off date. A de bene esse
deposition may be taken up to fifteen days before the Commissioner's hearing. Except for the
taking of depositions upon oral examination, these cut-off dates may not be extended by
agreement of counsel. Any discovery motion filed must contain a certification that counsel has
made a good faith effort to resolve the matters in controversy with opposing counsel.

3. If requested in discovery, counsel for plaintiff must identify all expert witnesses ninety
days before the Commissioner's hearing. If requested in discovery, counsel for defendant must
identify all expert witnesses sixty days before the Commissioner's hearing. Identification must
set out all information discoverable under Rule 4:1(b)(4)(A)(I); except as provided in paragraph
4, no separate document need be filed identifying an expert so identified in discovery. An expert
will not ordinarily be allowed to testify at the hearing about any non-disclosed opinion. The
foregoing deadlines do not relieve a party from responding to discovery requests within the times
set forth in Part Four of the Rules of the Supreme Court of Virginia.

4. If ordered by the Commissioner, counsel will exchange exhibits and a list of witnesses fifteen days before the hearing date. A list of exhibits and witnesses will be filed with the Clerk of Court simultaneously therewith but the exhibits need not then be filed. Exhibits will be listed individually; for example, "all medical records" will not suffice.

5. The Commissioner will file his report within sixty days of the conclusion of the hearing, except where, by leave of court, more time is allowed. If the Commissioner requests a transcript of the hearing it will be delivered to him within fourteen days of the conclusion of the hearing; the Commissioner may extend this time for good cause shown.

6. If no exceptions are filed to the Commissioner's report, a final decree conforming to the report will be presented to a Judge of the Court for entry within thirty days of the filing of the Commissioner's report.

7. Exceptions filed to the Commissioner's report will be heard by the Court within sixty days of the filing of the Commissioner's report. Any brief for the exceptions hearing will be filed at least seven days before the hearing.

8. Upon the taking of a non-suit or settlement of the case, counsel will notify the Clerk and the Commissioner as provided in Norfolk Circuit Court Civil Rule 2 (A)(6).

9. The Commissioner has the authority pursuant to *Code of Virginia* §8.01-576.5 to order a dispute resolution evaluation session of any issues in the suit.

10. The time limits and prohibitions in this decree may be waived or modified by the Court or the Commissioner for good cause shown.

ENTER: _____, 202__

Judge

We ask for this:

_____, p.q.

_____, p.d.

(Rev. 12/19)

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

_____,
Plaintiff,

v.

Civil No.: CL ____ - ____
Juvenile No.: CJ ____ - ____

_____,
Defendant.

SCHEDULING ORDER

Pursuant to Norfolk Circuit Court Civil Rule 2, IT IS ORDERED:

1. Trial will commence on _____, 202__ at 9:30 a.m.; provided, however, that if trial is by jury, counsel will appear before the trial judge at 9:00 a.m. that day to discuss pre-trial matters. A continuance will only be granted by the Court for good cause. Good cause does **NOT** normally include those reasons stated in the Court's written civil continuance policy.

2. Trial will be by jury/judge. The estimated length of the trial is _____ day(s).

3. All discovery shall be completed thirty days before trial. "**Completed**" means that (1) interrogatories and requests for production or admission must be served so that responses thereto will be due on or before the cut-off date, (2) all depositions upon written questions or oral examination, excluding *de bene esse*, be completed by the cut-off date, and (3) motions to compel shall be heard before the cut-off date. A *de bene esse* deposition may be taken up to fifteen days before trial. Except for the taking of depositions upon oral examination, these cut-off dates may not be extended by agreement of counsel. Any discovery motion filed must contain a certification that counsel has made a good faith effort to resolve the matters in controversy with opposing counsel. No provision of this order supersedes any provision of Part Four of the Rules of the Supreme Court of Virginia.

4. If requested in discovery, counsel for plaintiff must identify expert witnesses ninety days before trial, and rebuttal experts and opinions forty-five days before trial. If requested in discovery, counsel for defendant must identify all expert witnesses sixty days before trial. Identification must set out all information discoverable under Rule 4:1(b)(4)(A)(I) of the Rules of the Supreme Court of Virginia; except as provided in paragraph 5, no separate document need be filed identifying an expert so identified in discovery. An expert will not ordinarily be allowed to testify at trial about any non-disclosed opinion. The foregoing deadlines do not relieve a party from responding to discovery requests within the times set forth in Part Four of the Rules of the Supreme Court of Virginia.

5. Counsel will exchange a list of exhibits and witnesses fifteen days before trial. A list of exhibits and witnesses will be filed with the Clerk of Court simultaneously therewith but the exhibits need not then be filed. Exhibits will be listed individually; for example, "all medical records" will not suffice. Except in rebuttal, sur-rebuttal, or impeachment, any exhibit not so identified and filed will not ordinarily be admitted into evidence, and any witness not so identified and filed will not ordinarily be allowed to testify.

6. Any objections to exhibits (except on relevancy grounds) or witnesses will be filed five days before trial and argued no later than the day before trial. Failure to file the objection by this date is deemed a waiver of objection. Any objections to depositions of non-party witnesses, motions *in limine*, or other pre-trial motions (except those described in paragraph 9) requiring more than five minutes of argument must be argued before the day of trial.

7. Upon request of either counsel or the Court a final pre-trial conference will be held no later than the day before trial.

8. Proposed jury instructions will be given to opposing counsel two days before trial. At the beginning of trial, counsel will give the judge the originals of all agreed instructions and copies of all contested instructions with the appropriate citations.

9. Any motion for summary judgment or other dispositive motion should be filed and argued as long before trial as practical.

10. Upon the taking of a non-suit or settlement of the case, counsel will notify the Clerk as provided in Norfolk Circuit Court Civil Rule 2(A)(6).

11. The time limits and prohibitions in this order may be waived or modified by the Court for good cause shown.

ENTER: _____, 202__

Judge

We ask for this:

_____, p.q.

_____, p.d.

(Rev. 12/19)

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

Plaintiff,

v.

Civil No.: CL ____ - ____
Juvenile No.: CJ ____ - ____

Defendant.

SUPPLEMENTAL SCHEDULING ORDER

Pursuant to Norfolk Circuit Court Civil Rule 2, IT IS ORDERED:

1. The trial is continued until _____, 202__ at 9:30 a.m.
2. The cut-off dates for the completion of discovery and the designation of expert witnesses are not extended beyond those contained in the original scheduling order.
3. The deadlines for exchanging and filing exhibits, witness lists, objections to exhibits or depositions, motions in limine, proposed voir dire, jury instructions, motions for summary judgments and other dispositive motions shall be based upon the trial date established in this order. Such actions, if already taken, need not however be repeated.
4. Except as herein modified the terms of the original scheduling order remain in effect.

ENTER: _____, 202__

Judge

We ask for this:

_____, p.q.

_____, p.d.

(Rev. 12/19)

CLERK'S CIVIL CASE MANAGEMENT INFORMATION SHEET

Once a case has been filed with the Clerk and is ready to be set for trial, attorneys or pro se litigants need to contact either:

CIVIL DOCKET CLERK
757-793-3641

All cases that are pre-assigned to a certain judge must be set with the Judicial Docket Administrator:

MRS. WENDY SPIVEY
757-664-4594

When your case is filed you are expected to let the Clerk know in your cover letter whether the case is going to last more than two days or if the case is one of the types of cases addressed in Norfolk Circuit Court Civil Rule 2(B). [Assignment of Cases to Judges].

The Clerk has forms for scheduling orders available upon request.

If both parties are proceeding without attorneys, the docket clerk will set their cases for trial and they will be notified by mail.

If both parties are represented by counsel, it is the responsibility of the plaintiff's attorney to submit a scheduling order within the time prescribed in Norfolk Circuit Court Civil Rule 2(A)(3). If the plaintiff is proceeding without an attorney and the defendant is represented by an attorney, it is the responsibility of the defendant's attorney to submit a scheduling order.