

Petersburg Circuit Court: Docket Control Procedures for Divorce and Equitable Distribution

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A. Procedure

1. **Manner of proceeding.** In uncontested suits for divorce and contested suits of divorce where equitable distribution and support are not disputed, the Court will decide the cases based on deposition testimony or *ore tenus* evidence.

In contested suits for divorce where equitable distribution or support is disputed, counsel for the parties or unrepresented parties may elect as follows:

- (a) have the Court hear grounds for divorce, custody, and visitation *ore tenus* and refer equitable distribution and support to a Commissioner in Chancery,
- (b) have the Court hear all matters where counsel or the parties represent that the issues are limited and could be heard within a half-day hearing, or
- (c) have the Court refer all issues in the suit to a Commissioner in Chancery.

In the event that counsel or unrepresented parties cannot agree upon a manner of proceeding, the matter may be referred to a Commissioner in Chancery.

2. **Hearing by a Commissioner in Chancery.** Counsel shall agree upon a Commissioner in Chancery and submit an appropriate order. In the absence of agreement of counsel, the Court shall designate the Commissioner. The Commissioner shall make such inquiry as may be necessary and proper to determine and report to the Court on the issues referred. The Decree of Reference may grant the ability of the Commissioner to make rulings regarding discovery if stipulated by counsel. The record before the Commissioner shall be transcribed. A list of Commissioner appointed by this Court is attached herewith.

B. Scheduling

1. **Suits to be heard by the Court.** The trial of issues before the Court *ore tenus* shall be set for hearing through the Court Administrator.

2. **Suits in which all issues are referred to a Commissioner in Chancery.** A decree of reference shall be submitted within ninety days of the defendant's filing an answer or being "in default" under Rule 3:19. If appropriate, a scheduling order shall also be entered.

3. **Special Provision for Suits in which Custody is Contested.** No trial or hearing (except *pendente lite*) shall be held until the parties have attended a program on the effect of divorce on children and one dispute resolution evaluation session.

4. **Special Provision for Suits in Which Child Support is Sought.** The parties at such trial or hearing are to confer and prepare a completed child support guidelines worksheet.

C. Commissioner's Fees

A deposit toward fees and costs of the Commissioner shall be made to the Commissioner ten days in advance of the Commissioner's hearing. The fees to be charged by the Commissioner shall be as determined by the Court or as otherwise agreed by counsel.

D. Filing of Reports and Submission of Final Decrees

1. **Filing of Reports.** The Commissioner in Chancery to whom such suit is referred shall file his report with the Clerk and send copies to counsel of record within sixty days after the Commissioner's receipt of the hearing transcript. However, if the Commissioner permits memoranda of law to be submitted after the hearing, (a) the moving party shall submit his memorandum within ten days of the Commissioner's receipt of the transcript; (b) the responding party shall submit his memorandum within twenty days of the receipt of the transcript; and (c) the Commissioner shall file his report within eighty days of the receipt of the transcript. The Court, for good cause shown, may extend the aforesaid time limits.

2. **Submission of Final Decree.** In any suit referred in whole or in part to a Commissioner, the final decree shall be submitted to the Court within thirty days of either the filing of the Commissioner's report if no exceptions are filed or the Court's ruling on exceptions.

E. Referral pursuant to Virginia Code § 20-79(c) in Final Decrees

Final decrees of divorce that provide for child custody, visitation, or support, or spousal support, or reservation of any of these matters, shall contain a referral clause pursuant to [Virginia Code § 20-79\(c\)](#) to the Juvenile and Domestic Relations District Court in the named jurisdiction which is appropriate to the case.

F. Waiver or Modification

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

Commissioners in Chancery appointed by the Petersburg Circuit Court:

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