

# Petersburg Circuit Court: Local Policies and Procedures

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## I. Docket Control Procedures in Criminal Cases

### A. Grand Jury:

1. **General.** Grand Jury meets on the third Thursday of every month, the Term Day on which trials are set.

2. **Defendant's appearance.** It is mandatory that each defendant on bond and awaiting trial appear for Term Day unless previously recognized by the Court or Clerk of the Court to appear for a trial or motions date. A defendant incarcerated in Petersburg City Jail or Riverside Regional Jail is transported for Term Day if he or she needs to elect a jury or bench trial.

3. **Scheduling procedures.** Trial dates will be set within the term of court, but the setting of a case may be postponed to a later term for good cause shown. The defense and Commonwealth are encouraged to pre-schedule criminal bench trials in advance of the Term Day.

4. **Failure to appear.** Bench warrants will be issued for those who fail to appear on Term Day. If the defendant fails to appear for an appeal of a case from the District Court, he may be tried in his or her absence or a separate warrant may be issued for an arrest.

B. **Continuance Policy:** Once a case has been set for trial, a continuance of that trial date will be granted only for good cause. All requests for continuances should be made in writing and scheduled for hearing at the earliest possible time in advance of the trial date. Please see Continuance Policy posted on this site.

### C. Motions and other pretrial matters:

1. **Scheduling.** The defense and Commonwealth are encouraged to pre-schedule motions before Term Day. All cases scheduled for a jury trial will require a pre-trial conference for motions and other pre-trial matters.

2. **Filing.** A written motion and notice should be filed with the Clerk with copies to opposing counsel.

3. **Bond appeal.** A copy of the warrant from the lower court must accompany the written motion. The motion must state the case number(s) from the General District Court or Juvenile & Domestic Relations Court, the next court date and hearing time, the date of the alleged offense(s), and the present bond for each of the charges.

4. **Plea offers and motions to nolle prosequere.** If the Commonwealth's Attorney intends to move to nolle prosequere or otherwise dismiss the charge or to make a plea offer, defense counsel should be so advised at the earliest possible date.

D. **Jury Trial Requests:**

1. Jury trials will be scheduled at term day or by the Commonwealth Attorney with approval by the Court.
2. A pretrial hearing must be scheduled on a date no less than ten (10) days prior to the jury trial.
3. Motions must be filed and scheduled for a hearing no less than ten (10) days prior to the jury trial.
4. **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.
5. **Starting Time.** Trials begin at 9:00 a.m., but counsel and the defendant must appear at 8:30 a.m. for arraignment and to address any pre-trial issues.
6. **Verdict Forms.** It shall be the duty of counsel for the Commonwealth to prepare a verdict form(s) and to provide opposing counsel or unrepresented party a copy thereof at the time of exchange of instructions.

E. **Transportation Orders:**

1. **Responsibility of defense counsel.** It is primarily the responsibility of defense counsel to advise the Clerk and the Commonwealth's Attorney in a timely fashion of the facility in which the defendant is incarcerated, if the defendant is incarcerated other than in the Petersburg City Jail, Riverside Regional Jail, or the City Jail Annex.
2. **Responsibility of Commonwealth's Attorney.** It is primarily the responsibility of the Commonwealth's Attorney to prepare the transportation order and provide it to the Clerk for presentation to the court for entry.

F. **Interpreters:**

It is the responsibility of the defense attorney who becomes aware that his or her client or witness does not speak English or is hearing impaired to contact the Clerk at 804-733-2367 to request an interpreter. The request should be made at the earliest possible opportunity, but no later than five (5) business days before the trial or hearing. The Clerk must be advised of defendant's name, the court date, and the language (and dialect, if necessary) of the non-English speaking defendant/witness.

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

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.** Upon 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 contact the Court Administrator by telephone at 804-733-2423 to preset the case for trial. The Court Administrator has authority to schedule a pretrial conference and trial date for all civil cases except jury trial lasting more than one day. If the parties request a multi-day jury trial, then both counsel must appear at the Term Day to explain the need for scheduling multiple days.
3. **Scheduling conference.** If a case is not preset, notice of a scheduling conference will be sent to counsel of record and unrepresented parties. Trial may be scheduled with the Court Administrator prior to the scheduling conference. Scheduling conferences will take place on term day.
4. **Pretrial Conferences.** The Court encourages pretrial conferences and requires at least one when scheduling a jury trial or judge trial lasting longer than two (2) hours. The pretrial conference will be held thirty (30) days prior to the trial date. The Court will consider all motions in limine, settlement progress, pretrial motions, stipulations, trial management and other issues that will aid in the disposition of the case.
5. **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.
6. **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 (5) 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 (5) or fewer pages in length, the required notice and the brief shall be filed and served at least ten (10) days before the hearing and any brief in opposition to the motion shall be filed and served at least five (5) days before the hearing. If a brief will be more than five (5) 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 (20) 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. Orders prepared after the hearing will be scheduled for presentation by the parties at the next Term Day with appearance of counsel required unless entered by the Court prior to the Order presentation date.

2. **Final Orders.** Within thirty (30) 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.

**F. Judicial Settlement Conferences.**

The Judges of the 11th Judicial Circuit will only refer cases to Judicial Settlement Conference ("JSC") where the clients have open minds and the JSC is on a parallel track with the trial. The JSC will not postpone a trial date if one is already set. With this understanding, the attorneys may file a Motion asking the Court to refer a case to JSC. If granted, the lawyers shall select the JSC Judge they want from the approved list found online and contact the Judge who will schedule it for hearing. Upon confirmation of a JSC Judge and a hearing date, the Court will enter an Order of Designation and Referral to Settlement Conference.

**G. Contested Divorce and Equitable Distribution Cases.**

1. Pretrial Conference

When a pretrial conference is required, it shall be scheduled with the Court Administrator no less than Thirty (30) days prior to trial. The purpose of the pretrial conference is to discuss

settlement, a determination of the issues remaining for trial, to reach stipulations, and discuss any other matters which may aid in the disposition of the case. The parties and counsel shall attend the pretrial conference in person. Five (5) days prior to the pretrial conference the Pretrial Conference Brief and all worksheets and forms that are applicable to the case must be completed and exchanged by counsel and filed with the court.

**2. Parent Education Seminar**

If a child's custody, visitation or support is contested, the parents shall, prior to the trial date, show proof that they have attended an educational seminar on the effects of separation or divorce on children, parenting responsibilities, options for conflict resolution and financial responsibilities pursuant to Virginia Code § 20-13. Failure to attend may result in the case being removed from the trial docket. The Court may grant an exemption from attendance of such program for good cause shown.

**3. Exhibit and Witness List**

Counsel shall exchange Thirty (30) days before trial and before the pretrial conference a list specifically identifying each exhibit to be introduced at trial, copies of any exhibits not previously supplied in discovery, and a list of witnesses proposed to be introduced at trial. Any exhibit or witness not so identified will not be received in evidence, except in rebuttal or for impeachment or unless the admission of such exhibit or testimony of the witness would cause no surprise or prejudice to the opposing party and the failure to list the exhibits or witness was through inadvertence.

**4. Required Worksheets and Forms**

Counsel shall file with the Court and opposing counsel not later than Thirty (30) days prior to trial and before the pretrial conference all worksheets and forms required by the Court applicable to the issues in this case: The Monthly Income and Expense Statement of each party, Child Support Guideline Worksheets and Equitable Distribution Forms.

**5. Appointment or Continued Appointment of Guardian Ad Litem**

The parties shall immediately file any request for the Appointment or Continued Appointment of a Guardian Ad Litem providing in the motion the basis for appointment pursuant to Virginia Code §16.1-266. If the parties disagree on the appointment, then they shall schedule a hearing upon Notice that no agreement on the issue can be reached.

**6. Court Reporter**

A court reporter is required for the trial and must be secured by the parties.

**III. Petersburg Circuit Court: Continuance Policy**

**Docket Control Procedures regarding Continuances:**

A continuance will be granted in a criminal or civil case if a case with priority is still scheduled within seven (7) days of trial. Otherwise, once a case has been set for trial, a continuance of that trial date will be granted only for good cause. All requests for continuances should be made in writing at the **earliest** possible time in advance of the trial date.

**Grounds for Continuances Generally Deemed Sufficient**

- a. sudden medical emergency (not elective medical care) or death of a party, counsel, or material witness who has been subpoenaed;
- b. facts or circumstances arising or becoming apparent too late in the proceedings to be fully corrected and which, in the view of the Court, would likely cause undue hardship or possibly miscarriage of justice if the trial is required to proceed as scheduled.

#### **Grounds for Continuance Generally Deemed Insufficient**

- a. the case has not previously been continued;
- b. the case probably will settle if a continuance is granted;
- c. discovery has not been completed;
- d. new counsel has entered an appearance in the case or a party wants to retain new counsel;
- e. unavailability of a witness who has not been subpoenaed;
- f. plaintiff has not yet fully recovered from injuries when there is no competent evidence available as to when plaintiff will be fully recovered;
- g. a party or counsel is unprepared to try the case for reasons including, but not limited to the party's failure to maintain necessary contact with counsel;
- h. the failure to schedule suppression motions on a timely basis unless the Commonwealth failed to comply with a discovery order; or
- i. a police officer or other witness is either in training or is scheduled to be on vacation, unless the Court is advised of the conflict soon after the case is scheduled and sufficiently in advance of the trial date.

#### **IV. 11th Judicial Circuit Inclement Weather Policy.**

If the County Administrator or City Manager closes the other county or city offices in their respective localities due to severe weather, the Clerk of the Court may close his or her office as well and one of the Circuit Court Judges will enter an appropriate Order.

If Circuit Court is scheduled to be in session on a day when the locality is experiencing inclement weather, then the Judge that is scheduled to sit will determine whether court will remain open and go forward.

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