

Last amended by Order dated March 1, 2011; effective May 2, 2011.

RULES OF SUPREME COURT OF VIRGINIA
PART THREE
PRACTICE AND PROCEDURE IN CIVIL ACTIONS

Rule 3:23. Use of and Proceedings Before a Commissioner in Chancery.

(a) Commissioners in chancery may be appointed in cases in circuit court, including uncontested divorce cases, only when (1) there is agreement by the parties with concurrence of the court or (2) upon motion of a party or the court on its own motion with a finding of good cause shown in each individual case.

(b) Upon entry of a decree by the court referring any matter to a commissioner in chancery, the clerk shall mail or deliver to the commissioner a copy of the decree of reference. Unless the decree prescribes otherwise, the commissioner shall promptly set a time and place for the first meeting of the parties or their attorneys, and shall notify the parties or their attorneys of the time and place so set. It shall be the duty of the commissioner to proceed with all reasonable diligence to execute the decree of reference.

(c) A commissioner may require the production of evidence upon all matters embraced in the decree of reference including the production of all books, papers, vouchers, documents and writings applicable thereto. The commissioner shall have the authority to call witnesses or the parties to the action to testify and may examine them upon oath. The commissioner may rule upon the admissibility of evidence unless otherwise directed by the decree of reference; but when a party so requests, the commissioner shall cause a record to be made of all proffered evidence which is excluded by the commissioner as inadmissible.

(d) The commissioner shall prepare a report stating his findings of fact and conclusions of law with respect to the matters submitted by the decree of reference. The commissioner shall file the report, together with all exhibits admitted in evidence and a transcript of the proceedings and of the testimony, with the clerk of the court. In an Electronically Filed Case, filing as required in this Rule shall be in accord with the requirements of Rule 1:17. The commissioner shall mail or deliver to counsel of record and to parties not represented by counsel, using the last address shown in the record, written notice of the filing of the report. Provided, however, that in divorce cases a copy of the report shall accompany the notice. Provided, further, that no such notice or copy shall be given parties who have not appeared in the proceeding.