

**LOUDOUN COUNTY GENERAL DISTRICT COURT**  
**TWENTIETH (20<sup>TH</sup>) JUDICIAL DISTRICT OF VIRGINIA**  
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Leesburg, Virginia 20176  
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**RULES, PROCEDURES AND**  
**BEST PRACTICES**  
**OF**  
**THE GENERAL DISTRICT COURT**  
**OF LOUDOUN COUNTY**

Effective February 1, 2022

**VIRGINIA:**

**IN THE TWENTIETH (20<sup>TH</sup>) JUDICIAL DISTRICT  
LOUDOUN COUNTY GENERAL DISTRICT COURT**

**RULES, PROCEDURES AND BEST PRACTICES  
OF THE GENERAL DISTRICT COURT OF LOUDOUN COUNTY**

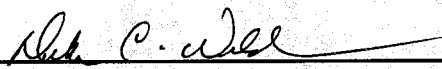
**ORDER OF ADOPTION**

These Rules, Procedures and Best Practices of the General District Court of Loudoun County (“Local Rules” or “LR”) are unanimously adopted by the Judges of the Loudoun County General District Court of the Twentieth (20<sup>th</sup>) Judicial District pursuant to Rules of the Virginia Supreme Court 1:15, 7A:5 and 7A:15. A copy of these Local Rules, with date(s) of entry, shall be posted in the Clerk’s Office, filed with the Executive Secretary of the Supreme Court of Virginia, provided to the local bar association, made available to attorneys practicing before this Court, and made available to any citizen appearing before this Court. All prior rules of this General District Court (“Court”) not contained herein are revoked.


These Local Rules are divided into three (3) parts: Part (A) General Practice – Applicable to All Proceedings; Part (B) Civil Practice; and Part (C) Criminal & Traffic Practice; and include applicable appendices. This structure is intended to follow the format set forth in Rule 7 of the Rules of the Virginia Supreme Court (General District Court).

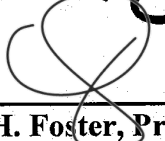
If any Local Rule herein should conflict with a Rule of the Virginia Supreme Court, the Rule of the Virginia Supreme Court will control. The Rules of the Virginia Supreme Court are hereinafter referenced as “VSCR.”

**Entered this 1<sup>st</sup> day of February, 2022.**

  
\_\_\_\_\_  
Deborah C. Welsh, Chief Judge

  
\_\_\_\_\_  
Lorrie A. Sinclair Taylor, Presiding Judge

  
\_\_\_\_\_  
Matthew P. Snow, Presiding Judge

  
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Jessica H. Foster, Presiding Judge

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## **PART A: GENERAL PRACTICE – APPLICABLE TO ALL PROCEEDINGS**

### **1. Clerk's Office**

The Clerk's Office is the administrative arm of the court and is the public access point. The Clerk's Office discharges the duties prescribed by law and the court, to include processing all documents, finances and information for the court, administering the efficient operations of the court, and keeping all the records and accounts of the court. Clerk's Office employees are not permitted to give legal advice to any party, but may provide basic information to any individual about court forms, filing requirements and fees, and other procedure related topics.

The Clerk's Office is open to the public Monday through Friday, from 8:00 a.m. until 4:00 p.m. Any filing submitted after 4:00 p.m. is not deemed filed or received until the following business day. The office telephone number is (703) 777-0312; fax number is (703) 771-5284.

The cooperation of the staff of the Clerk's Office can be an invaluable aid to any practicing attorney or citizen. Treating the staff with respect and courtesy is the cornerstone of establishing a mutually advantageous relationship and a hallmark of professionalism. You will find the staff of the Clerk's Office eager to serve you.

### **2. Access to Court Files**

All court files are generally open to public access unless otherwise provided by statute or court order. General information related to cases is available online through the Virginia Judicial System Case Information website ([www.vacourts.gov](http://www.vacourts.gov)).

- a. **Digital Access:** Parties seeking to review a court case file are encouraged to make use of the Court's public access computer terminals, available to the public in the courthouse lobby. Using these computer terminals, members of the public can access and view digitally scanned copies of the Court's case files, free of charge. In addition, anyone seeking to obtain copies of document(s) in a case file can use the public access computer terminals to print pages to a printer located in the Clerk's Office and then retrieve and pay for the printed copies from the Clerk's Office window.
- b. **Physical Access:** Requests to review a physical court case file or for obtaining copies of a court file (not made via printing from the public access terminal) may be made in writing through the Clerk using the Court's request form and are subject to the following:
  - i. **In-Person Review of an Open/Pending Case File:** The requesting individual must submit a completed written request form to the Clerk and the requested file will be made available at the Clerk's Office window for review within two (2) hours. While being reviewed by the requesting party, a court case file may not leave the Clerk's window area. Copies of up to two (2) pages may be made from such file upon request during review; additional pages require the submission of a written copy request form.

- ii. **In-Person Review of a Closed Case File**: The requesting individual must submit a completed written request form to the Clerk and the requested file will be made available at the Clerk's Office window for review within three (3) business days. Case files may not leave the clerk's window area. Copies of up to two (2) pages will be made from such file upon request during review; additional pages require the submission of a written copy request form.
- c. **Exceptions to Open Access**: Certain case files or documents within case files that are confidential or sealed by statute, VSCR or court order (e.g., civil mental health commitment hearings, documents within Mental Health Docket files, civil protective order case files or criminal case files, bench notes) may only be accessed by legally authorized individuals with the permission of the Court or Clerk. Any person who believes he or she is improperly denied access to a sealed document or case file may submit a written petition to the Court for consideration or docket the request, as appropriate.

### 3. **Copies**

Requests for copies of any court document made through the Clerk (other than documents printed from the public access computer terminals as referenced in LR A:2(a) above) must be submitted in writing and paid for prior to pick up or mail out. Any individual or party requesting a copy of an order or other court document to be sent to them by mail must include a return self-addressed stamped envelope and provide payment for the copies in advance; otherwise the copies will not be provided. Cases cannot be copied on the court date until the case has been processed after the court session has ended. No copy will be certified unless specifically requested. Written copy requests will be processed in the same time frames as contained in LR A:2(b) above. Copies of court documents may not be made by the public using handheld electronic devices such as cell phones, tablets or other portable scanners.

### 4. **Filing Format & Related Requirements**

- a. All court filings must conform to the VSCR. This includes the requirement that filings should be typed and that any counsel or unrepresented party who files a pleading with this Court shall sign it and state his or her address, telephone number, fax number and e-mail address. All counsel licensed to practice law in Virginia shall include their Virginia Bar number. The Court and Clerk reserve the right to require any non-conforming filings to be revised pursuant to VSCR 7A:7(b).
- b. All court filings must be in the English language or have an applicable English language translation of the foreign language document(s) attached. The Court does not have its own document translation capabilities.
- c. Parties are encouraged to consult with the Clerk's Office regarding filing requirements, fees or other process related requests prior to filing. Filings that do not conform to requirements of state law or these Local Rules may be declined and returned to the filing party by the Clerk.

- d. Fee waivers: Low-income persons, including persons receiving public assistance, may petition the Court to have certain filing fees or costs waived. See OES Form CC-1414. *Note*: this fee waiver provision does not apply to fines or court costs imposed in criminal or traffic matters.
- e. All filings that require a copy to be provided to the opposing party should be so certified consistent with the VSCR that such a copy has been provided to opposing party, to include a statement of the date and method by which a copy has been transmitted to the opposing party. Any *ex parte* communication with the Court by a party that is substantive in nature will not be considered by the Court.
- f. Any written request to the Clerk for performance of an administrative act or duty may be made by letter or the equivalent communication.
- g. Any written request to the Court for a non-administrative act related to a case or pending matter shall be made only by appropriate filing or pleading that conforms to all applicable VSCR and complies with the prohibition on *ex parte* communications. Waiver of this provision in emergency situations is subject to judicial discretion. This provision is not applicable to LR C:7(d) herein.

*For example*, counsel making a written request for a non-administrative action such as a continuance, rescheduling, dismissal or nonsuit, must do so by an appropriate pleading or filing, such as a *Praecipe*, Notice, Motion, or Order consistent with the VSCR. Requests for non-administrative court actions will not be recognized if made solely by means of an e-mail, letter or other informal written communication to the Court.

## 5. **Best Practices**

This Court, from time to time, may develop and issue Best Practices Guidelines applicable to various matters that often come before the Court. Once issued, any such Best Practices Guidelines are incorporated as an Appendix to these Local Rules.

## 6. **Appearances in a Pending Matter**

- a. **Counsel of Record**: Pursuant to the VSCR, the term “counsel of record” applies to both an attorney who has entered an appearance in a case, as well as to a non-attorney (unrepresented party) who has appeared in Court or submitted a signed pleading or other writing to the Court. Any non-attorney is required to keep the court updated with a valid residential address, telephone number, and active e-mail address or fax number (as applicable); and all counsel of record are required to keep the court updated with a valid mailing address, active e-mail address, telephone number, and fax number at all times during a pending proceeding. See VSCR 1:5 & 7A:3; Va. Code §§ 8.01-319(A), 16.1-88.03.
- b. **Appearance of Legal Counsel**: The signing of any pleading by an attorney on behalf of a party is deemed an appearance of counsel. However, the Court finds that it can be unclear both to the Court and to other parties of an attorney’s status in a case if the attorney merely submits an unofficial letter, fax, e-mail or other correspondence that is not an actual pleading. It is a best practice, and the



preference of this Court, for any attorney appearing on behalf of a party to first note his or her appearance by formal Notice of Appearance, *Praecepte* or other appropriate filing consistent with the VSCR.

- c. **Substitution of Counsel**: When an attorney or law firm has already entered an appearance as counsel of record on behalf of a party, or if counsel has already been appointed for a party, the Court will not recognize or act upon a filing by a different attorney or law firm unless and until a properly executed substitution of counsel order has been entered by the Court. This also means that any counsel of record remains counsel of record, with all related duties and obligations, unless and until an order of substitution is entered by the Court or counsel is otherwise granted leave to withdraw. See VSCR 7A:3.

## **7. Emergency Matters**

- a. Any filing that seeks immediate court action or variance from the procedures set forth herein should be appropriately labeled and identified in writing as an “Emergency.” Any filing labeled or identified as an Emergency will be received by the Clerk but not docketed, and be brought to the attention of an available judge forthwith. The reviewing judge will assess the filing on its face and determine if such matter qualifies as an emergency and is otherwise entitled to exemption from the procedures herein or other priority treatment. If there is a specific docketing request related to the matter, the request should be clearly stated in the filing. Such matters will only be docketed at the direction or authorization of the reviewing judge. Any certification requirements pursuant to VSCR 1:12 continue to apply, unless exempted by statute.
- b. Matters that are automatically handled according to this Court’s emergency filing procedure listed above, without need to be labeled or identified as an “emergency,” include a Petition for a Preliminary Protective Order pursuant to Virginia Code §19.2-152.9 or a Petition for Unlawful Ouster/Exclusion pursuant to Virginia Code §55.1-1243.1.

## **8. Agreed Orders**

The Court encourages all parties to attempt to resolve matters or issues outside of court docket time when possible. Even when a matter is scheduled for trial, parties are free to continue negotiations or discussions of agreements on some or all matters pending before the Court. The Court encourages parties to submit proposed, fully endorsed, agreed orders to the Clerk, along with a written request to have the matter directed to chambers for consideration, in order to resolve agreed matters efficiently and without need for docketing. However, it is important to note that merely submitting a proposed agreed order to chambers does not mean the court will grant the proposed order. Responsibility rests on the submitting parties to check back with the Clerk’s office to determine if the proposed order has been granted, denied or addressed in another manner. Any proposed consent orders submitted to the court are subject to the following:

- a. Proposed agreed orders must be compliant with the VSCR;

- b. The submitted filing(s) should clearly state in writing if it is requested for the matter to be reviewed and entered in chambers prior to the scheduled court date. Proposed agreed orders that are filed with no accompanying motion, request for review or entry, or other indication will simply be filed and no action taken.
- c. Responsibility rests on the submitting parties to check back with the Clerk's office to determine if the proposed order has been granted or denied or addressed in another manner;
- d. A proposed consent order must be properly endorsed by all parties.
- e. Sufficient grounds, good cause and authority (where applicable) should be included with every proposed consent order, either in the proposed order or in an accompanying motion, to provide the Court enough information to make an informed decision on the proposed consent order. If there is insufficient information, the proposed order will be declined, denied or may be docketed by the Court for hearing, in the Court's discretion;
- f. Submission of a proposed consent order less than two (2) business days prior to a scheduled hearing is strongly discouraged.

*For example*, if the parties submit a proposed agreed order to continue a scheduled trial, the parties should not rely upon that proposed agreement and should continue to prepare for trial unless and until the proposed order has been granted and entered by the Court. Mere submission of a proposed order by itself does not mean the Court will agree that continuing the scheduled trial is appropriate.

## **9. Motions, Generally**

- a. Unless exempted by statute, a copy of any motion filed with the Court is subject to VSCR 1:12, and must be provided to the opposing party at the time of filing.
- b. Motions will not be docketed for hearing unless specifically requested with proper notice given to the other party.
- c. Notice time requirements for motions are specified in other sections of these Local Rules by subject matter. Nonetheless, parties are encouraged to communicate with each other to schedule matters when both parties are available to be heard. For all motions, notice time is calculated from when the motion is received by the Court or other party, not from when it is sent by the filing party.
- d. Any electronic notice (i.e., e-mail) between the parties is governed by the VSCR.

*For example*, sending notice of a "48 hour" motion solely by U.S. mail two (2) days before the hearing date does not satisfy the notice requirements specified herein; nor does sending a "7 day" motion solely by U.S. mail on the seventh (7<sup>th</sup>) day before the requested or scheduled date.

## **10. Trials**

Trial docket time is limited and in high demand. The Court has the responsibility to responsibly manage its dockets to ensure the ability of all citizens to have access to justice. As such, all parties seeking relief from the Court should take note of the following:

- a. **Continuances**: Repeated continuances of matters set for trial deprive other citizens and litigants of the ability to have their matters adjudicated in a timely manner. A continuance of a matter scheduled for trial is strongly discouraged and will rarely be granted except for compelling reasons, or as otherwise stated herein. See also, VSCR 7A:14, and as otherwise provided herein. If serious illness is cited as a justification for a continuance request, written verification from a medical authority or professional may be required.
- b. **Stipulations**: Counsel and/or parties are strongly encouraged to reach stipulations in advance of trial about resolved or unresolved issues pending before the Court, admission of exhibits, and witness testimony.
- c. **Time Estimates/Limits**: It is expected that parties will be prepared to provide the Court with a time estimate for any trials and hearings. Parties must evaluate their respective case, evidence and arguments prior to court so as to provide an accurate time estimate to the Court. The Court reserves the right to control its docket in its discretion and limit the docket time afforded to the parties for trial or other hearing.

## **11. Motions to Reconsider**

- a. Any party submitting a request for a reconsideration of a prior ruling must submit a written motion stating the reasons for his or her request for a hearing, with copy to the opposing party. The written motion will be brought to the attention of the appropriate judge for consideration. If the judge determines that the written motion provides insufficient cause to support scheduling of a hearing, then the motion will be denied summarily. If the judge determines that the written motion provides sufficient cause to support scheduling a hearing on the merits, then the Court will place the motion on the docket, with notice to both parties, to permit both parties to appear and present argument or evidence on the merits of the issue.
- b. These procedures do not change any rights, process or deadlines on any motion to reopen or for a new trial established under Virginia Code §§ 8.01-322 (civil), 8.01-428 (civil); 16.1-97.1 (civil), 16.1-133.1 (criminal), or other applicable statute.
- c. Any motion to reconsider is subject to VSCR 1:1, unless exempted by statute, prior valid order, or other lawful authority.

## **12. Appeals**

An appeal from any final order of this Court must be filed, in writing, with the Clerk's Office within ten (10) days of the order; after ten (10) days, the right to appeal expires. In a criminal matter, an appeal bond may be required, in the discretion of the Court. In a civil matter, an appeal bond is equal to the total amount of the judgment ordered, unless otherwise specifically modified by the presiding judge (see Va. Code §16.1-107), and in unlawful detainer matters an appeal bond will also include future rents of five (5) months (in lease cases) or three (3) months fair market value (foreclosure cases)(see Va. Code §8.01-129(B)). The time to perfect a civil appeal bond varies by type of matter, by statute.

### **13. Language Services**

Language assistance services, in the form of verbal language interpreters, are available to litigants for scheduled court hearings, with advance notice. Spanish language interpreters are available in-person in the courthouse on a daily basis; however, they serve all the courts of this jurisdiction, and may have conflicting obligations at a given docket time if advance notice is not provided. No non-Spanish language interpreters are available on site without advance notice. Telephone language interpretation services may be arranged in the discretion of the presiding judge; however, in-person language interpretation is preferred. It is a best practice for the party or counsel of record to notify the Clerk's Office of a language interpretation need in writing as soon as possible, and in no event less than ten (10) days prior to a hearing; and further to check with the Clerk for confirmation three (3) business days after the request is made. A party may not use nor provide on their own an outside language interpreter for a court hearing without prior Court approval. Failure to provide the Court with advance notice of a language assistance need may result in the Court removing the related hearing from the docket or taking other appropriate action as the Court may determine.

### **14. Americans with Disabilities Act Accommodations**

The Americans with Disabilities Act ("ADA") was enacted to ensure that all qualified individuals with disabilities enjoy the same opportunities that are available to persons without disabilities. Upon request, the Office of the Executive Secretary of the Virginia Supreme Court assists with ADA accommodations for public programs and services of the Virginia District Courts.

#### Contact Information:

ADA Coordinator: Dr. Renee Fleming Mills  
Office of the Executive Secretary  
Supreme Court of Virginia  
100 N. 9<sup>th</sup> Street  
Richmond, Virginia 23219  
Phone: (804) 786-6455  
Fax: (804) 786-0109  
E-mail: [ADACoordinator@vacourts.gov](mailto:ADACoordinator@vacourts.gov)

Services for persons with sensory impairments: The Virginia judicial system works in coordination with the Virginia Department for the Blind and Vision Impaired (VDBVI) to grant accommodations to court users with visual impairments upon request. The Court will also procure interpreters for the deaf through the Virginia Department for the Deaf and Hard of Hearing (VDDHH) upon request. Hearing assistance devices are available in each courtroom upon request.

Any special accommodation requests should be made through the Clerk's Office no less than ten (10) days prior to a hearing; and further the requestor is to check with the Clerk for confirmation three (3) business days after the request is made.

Other information pertaining to ADA accommodations may be found at:  
[www.vacourts.gov/courts/ada/home.html](http://www.vacourts.gov/courts/ada/home.html).

## **15. Courtroom Management**

- a. While presiding, each judge has the full authority to direct the management and control of his or her courtroom, in that judge's discretion.
- b. Appropriate attire is required of all parties, counsel and witnesses in any courtroom of this Court.
- c. All persons attending proceedings in any courtroom of this Court shall, on the request of a law enforcement officer, submit to either an electronic search or a physical "pat-down" of his or her person, or both, in the discretion of the officer conducting the search, and shall also exhibit to each officer the contents of any parcel, handbag, carrying case or container of whatsoever nature.
- d. No person may bring a weapon, firearm or ammunition into a courtroom of this Court, unless that person is a sworn officer acting in performance of that officer's duties, or if such item is evidence in a pending case and is both in the custody of an authorized person and properly secured. Any unauthorized item is subject to seizure by a law enforcement officer. All armed sworn officers appearing dressed in civilian clothing must clearly display their badges and identifications at all times while in a courtroom or conference room of this Court.
- e. If an electronic device (e.g., cellular telephones, tablets, laptops, etc.) is needed for the presentation of evidence in this Court, but that same device is not permitted in the courthouse due to security measures, the party or witness in need of such device may make a request or motion to the presiding judge for an order authorizing a case specific exception for purposes of evidence presentation only.
- f. The conference rooms directly outside of each courtroom of this Court, but within the outer doors of each courtroom, are subject to the authority, control and direction of the Court, the Clerk and the presiding judge of such courtroom. Any party, counsel or citizen utilizing such spaces are expected to maintain proper decorum, avoid crowding, and use proper voice volume so as to avoid any disruptions to ongoing courtroom proceedings.
- g. Consuming food or chewing gum in any courtroom of this Court is prohibited.

## **16. Inclement Weather Policy**

- a. It is the general policy of this Court that if the Loudoun County Government closes or has a delayed opening due to inclement weather, then the Court will also close or delay opening, as applicable. The Court does reserve the authority to close on its own direction in certain circumstances even if County Government stays open. In any such event, the Court will make every effort to coordinate with the other Courts of Loudoun County with regard to an inclement weather-related closure or delay. **Note:** this policy is not related to any action(s) taken by Loudoun County Public Schools.
- b. Information regarding any such closure of the Court will be communicated via the Loudoun County Government website ([www.loudoun.gov](http://www.loudoun.gov)), the local bar association, the Court's telephone system and/or appropriate area news outlets.

- c. A matter that is scheduled for a date on which the Court is not open due to an unplanned closure or delay will be rescheduled forthwith by the Court for a new available date and time, with coordination or written notice to issue to all parties and/or counsel of record. The only exceptions to this policy are for: a) civil protective order hearing(s) or civil mental commitment hearing(s), which have statutorily mandated deadlines; or b) motions scheduled for an 8:30 a.m. or 1:00 p.m. docket. Those specific matters will automatically carry over to the same scheduled time on the next day that the Court is open, unless otherwise specified by the Court.

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## **PART B: CIVIL PRACTICE**

### **1. Civil Dockets**

- a. The Court's daily standard civil docket times are as follows, unless specially set by the Court: 8:30 a.m., 10:00 a.m., 1:00 p.m., and 1:30 p.m.
- b. The Court's weekly standard civil docket structure for the year is set out in **Appendix A**, attached and incorporated herein by reference.

### **2. Civil Return Dockets and Scheduling**

- a. If only one party and/or counsel of record appears for a civil return and represents to the Court that, by agreement, the matter is to be scheduled or otherwise continued, then the appearing party and/or counsel of record is required to forthwith send written notice to the opposing party of the next court date and of any related deadlines ordered by the Court at the civil return hearing, and certify the same to the Court.
- b. At a first civil return, the Court will generally grant either party, upon request, one (1) continuance on a return docket to pursue settlement or otherwise prepare the case before a trial date is scheduled. In such event, the Court reserves the right to order pleadings even if the matter is not yet scheduled for trial, in its discretion. This policy does not apply to landlord-tenant matters, or other civil matters granted priority on the docket by statute, absent consent of the parties.
- c. Parties are limited to two (2) continuances on the civil return docket for potential settlement discussions (prior to scheduling of trial), absent good cause shown.
- d. If a party appears for a civil return and requests authorization for an alternative process to issue, such as an Alias process, a Rule to Show Cause, or a Capias, and then that party fails to file such process by the deadline set by the court, such matter(s) will be dismissed without prejudice.
- e. When a party requests that a matter be scheduled for trial, the parties must provide the Court with a good faith total time estimate for trial duration. The Court reserves the right to limit the parties to the good faith time estimate provided, and remove

matters from the docket that substantially differ from such time estimate. If a party becomes aware of a substantial change in time estimate for trial after a matter is scheduled, it is expected that counsel of record will advise the Court of the amended good faith time estimate, in writing, no less than ten (10) days prior to the scheduled trial date. A law firm or counsel of record is limited to two (2) scheduled civil trials on any one (1) trial date.

- f. The Court will generally order pleadings, in the form of a written bill of particulars and a written grounds of defense, upon request of either party. The Court, in its discretion, may also order the same on its own motion. See VSCR 1:4, 7A:8, 7B:2.
- g. **Default Judgment Procedures:** In any civil matter where default judgment is requested in person by a party at the civil return docket, and the matter involves unliquidated damages, the Court will schedule a damages hearing (*ex parte* proof hearing) pursuant to VSCR 7B:9(c). If, however, the matter is a liquidated damages claim based on a written agreement and default judgment is requested pursuant to Va. Code §§ 8.01-28 and 16.1-88, the Court will note the request and then take the matter under advisement for a post docket review. The party requesting default judgment should be prepared to offer any additional materials not already in the Court's file in support of judgment at the time the matter is called. See also, **Appendix B, Best Practice Guidelines: Debt Collection**
  - i. Upon post docket review, if the Court is satisfied that all requirements have been met and default judgment is appropriate, the Court will enter judgment accordingly. The requesting party will be able to verify that judgment was granted as requested by checking the case information available on the Virginia Judicial System case information website within three (3) business days of the court date.
  - ii. Upon post docket review, if the Court is not satisfied that default judgment is appropriate, the Court will reset the matter on a civil return docket for a future date for the party to present *ex parte* proof or otherwise address the issue(s) preventing entry of previously requested judgment. The burden rests with the requesting party to check the case status information available on the Virginia Judicial System case information website (or in the alternative, call the Clerk's Office) to see if the case has been reset for another date and the comments posted regarding any potential defective issues or lacking evidence. No notice will be sent to the requesting party. If the party fails to appear for the newly docketed date, or appears but is unprepared to address the matter, the Court will dismiss the case without prejudice.

### **3. Civil Motions; Docketing of Pre/Post-trial Matters**

- a. Civil motions or other pre-trial requests for court action in a civil case may be placed on the docket by a party providing at least seven (7) day advance written notice to both the Court and the opposing party, unless otherwise stated herein or by statute. Civil motions of ten (10) minutes or less may be docketed for hearing on any regular civil return docket. Civil motions of more than ten (10) minutes

shall be docketed for scheduling only on any regular civil return docket, and then set specially by the Court at the return. It is a best practice to include a time estimate for the motion in any *Praecipe*, Notice or Motion that is filed. Parties are encouraged to consult with the Clerk about the availability of potential hearing dates.

- b. Any civil motion that is not properly docketed by a party may be removed from the docket by the Court without notice.
- c. Proposed settlement orders, or other related agreed orders may be submitted to the Clerk with a written request for the matter to be considered in chambers in advance of a scheduled hearing date. Proposed continuance orders of a matter already scheduled for trial is strongly discouraged, absent good cause shown. See also LR A:4 regarding proposed agreed orders.

#### **4. Requests for Attorney's Fees**

A request for attorney's fees in a civil matter must be supported by evidence, to include a proper attorney's fees affidavit, and an accompanying statement of account or other itemization of time and costs allocated to the matter, if appropriate. Witness or party testimony may also be offered; however, attorneys will not be permitted to testify in support of their own attorney's fees. At trial, the affidavit and any other relevant evidence of attorney's fees must be presented as part of the case in chief, unless otherwise specifically directed by the presiding judge. If requested as part of default judgment or summary judgment, the affidavit and any other related evidence of attorney's fees must be presented at the time that judgment is requested. An attorney's fees request based on written contract, note or other instrument must have the appropriate provision of the authorizing document highlighted, underlined or otherwise clearly marked.

#### **5. Remote / Video Appearances**

Remote appearances (audiovisual or telephonic) are only permitted in civil matters as may be authorized by statute or by order of the Virginia Supreme Court.

If and when such legal authority exists, a party requesting a remote appearance must submit a written request to the Court for permission to appear remotely no less than two (2) business days ("48 hours") prior to the applicable court appearance. Such request is considered a motion, subject to all applicable VSCR. Granting any such request is in the Court's sole discretion.



## **PART C: CRIMINAL & TRAFFIC PRACTICE**

### **1. Criminal & Traffic Dockets**

- a. The Court's daily **criminal** docket times are as follows, unless specially set by the court: 8:30 a.m., 10:00 a.m. (as may be designated), and 1:00 p.m.
- b. The Court daily **traffic** docket times are as follows, unless specially set by the Court: 8:30 a.m., 10:00 a.m. (as may be designated), and 1:30 p.m.
- c. Arraignment hearings are heard daily at 11:15 a.m.
- d. Bail or bond review and revocation hearings are heard daily at 1:00 p.m. (unless otherwise scheduled by the Court for 8:30 a.m. on certain morning-only dockets).
- e. Preliminary hearings in criminal felony matters are heard daily at 1:00 p.m. after the conclusion of any bail or bond hearings. Preliminary hearings in traffic related felony matters are scheduled on the traffic court docket corresponding with the traffic court date assigned to the charging law enforcement official.
- f. The Court's weekly criminal and traffic docket structure for the year is set out in **Appendix A**, attached and incorporated herein by reference.

### **2. Criminal & Traffic Motions; Docketing of Pre/Post-Trial Matters**

- a. **Standard Motions ("48-hour")**: A motion in a criminal or traffic case, or other pre- or post-trial requests for court action, may be placed on the docket by a party providing at least two (2) business days (a/k/a "48 hours") advance written notice to both the Court and the opposing party, unless otherwise stated herein or by statute. The motion must be filed by 12:00 p.m. for the day of filing to be counted toward the notice requirement. If counsel believes in good faith that the matter will take more than ten (10) minutes (total), then counsel should advise the Court at the outset, and the Court reserves the right to reschedule the motion for an alternate docket time or date.
- b. **Priority Motions ("24-hour")**: The priority motions listed in this sub-section may be placed on the docket by a party providing at least one (1) business day (a/k/a, "24 hour") advance written notice to both the Court and the opposing party, unless otherwise stated herein or by statute, to-wit:
  - i. Motion for Bail/Bond
  - ii. Motion to Withdraw as Counsel
  - iii. Motion for Competency or Sanity Evaluation

The motion must be filed by 12:00 p.m. for the day of filing to be counted toward the notice requirement. If an opposing party claims surprise or insufficient notice for any such motion, the presiding judge will determine if and when the subject motion is addressed, in the Court's discretion.

c. **Bail/Bond Motions:**

- i. The advance notice requirement for bail/bond motions referenced above may not be waived by the parties except with the consent of the Court. Further, oral requests to schedule a bail or bond review hearing will only be considered with the consent of the opposing party.
- ii. Notice of a bail or bond review motion should also be provided to the local Pretrial Services agency when the defendant has already been placed under the supervision of Pretrial Services, or if either counsel anticipates requesting GPS or Soberlink monitoring.
- iii. In most cases, bail or bond hearings will be conducted with the defendant appearing remotely by video/audio link with the detention facility. If counsel of record desires the in-person presence of the defendant, a request for the same must be made via the Clerk no less than 24 hours prior to the bail or bond hearing.
- iv. In a bail or bond hearing, the Rules of Evidence are relaxed. Parties may present evidence by proffer. As with any representations made to the Court, the Court expects that any proffering counsel has taken appropriate steps as an officer of the court to ensure and verify the reliability of any information that is presented by proffer. In addition, if certain proffers are not accepted by the opposing party, the proffering party should be prepared to present other evidence to support the particular issue.

- d. **Suppression Motions and Pre-trial Evidentiary Motions:** The Court will presume that any suppression motion filed in advance of the trial date will be heard on the date and time designated for trial, unless otherwise scheduled or ordered by the Court. If a party wishes to schedule a suppression motion or other pre-trial evidentiary motion for a hearing in advance of trial, and the motion is expected in good faith to take more than ten (10) minutes, then such motion should be placed on the motions docket for scheduling, and then set specially.

3. **Discovery**

The Court has standardized the procedures for making a discovery request pursuant to VSCR 7C:5. A non-standard discovery motion must be docketed for hearing as a two (2) day (48 hour) motion. A standard 7C:5 discovery request does not require a docketed motion, and shall be accomplished as follows:

- a. The motion for standard 7C:5 discovery must be on the form specified by this Court and available to all parties, and be filed no later than ten (10) days before the scheduled trial and/or preliminary hearing date.
- b. Upon filing a motion for discovery with this Court and a copy to the Commonwealth, as provided in Virginia Supreme Court Rule 7C:5, the Commonwealth must provide counsel for the Accused the opportunity to hear, inspect and copy or photograph the following information or material when the existence of such is known or becomes known to the prosecuting attorney or

representative of the Commonwealth and such material or information is to be offered in evidence against the Accused in this Court:

- i. any relevant written or recorded statements or confessions made by the Accused, or copies thereof and the substance of any oral statements and confessions made by the accused to any law enforcement officer; and
  - ii. any criminal record of the Accused.
- c. The Commonwealth must provide the discovery authorized by this Local Rule no later than ten (10) days after the filing of the motion and service on the attorney for the Commonwealth or on the date of trial and/or preliminary hearing, whichever comes first.
  - d. Counsel for the Accused shall be responsible for making the appropriate arrangements with the Commonwealth in a timely fashion to facilitate the discovery authorized herein, including travel to the Office of the Commonwealth Attorney.

#### **4. Waiver of Appearance in Court by the Defendant**

A defendant or defendant's counsel may not unilaterally waive the in-person appearance of the defendant on anyailable offense where the possibility of incarceration has not previously been waived by the Court. An exception to this requirement exists if the Commonwealth moves to amend the offense to a non-ailable offense.

#### **5. Remote / Video Appearances**

- a. Remote appearances (defined by Virginia Code as a live two-way audiovisual connection) by a defendant are only permitted in criminal matters as authorized by statute (Va. Code § 19.2-3.1) or by authorization of the Virginia Supreme Court.
- b. Absent authorization by state law or the Virginia Supreme Court, traffic infractions are not authorized for remote appearances by a defendant, nor are misdemeanor trials or felony preliminary hearings.
- c. Arraignments and bail or bond review hearings may be conducted by remote appearance of the defendant at the direction of the Court. See also LR C:2(b).
- d. Consent of all parties is required for a remote appearance of the defendant in the following proceedings: (i) entry of a plea of guilty or nolo contendere and the related sentencing of the defendant charged with a misdemeanor or felony; (ii) entry of a nolle prosequi or dismissal; or (iii) a revocation proceeding pursuant to Va. Code § 19.2-306. It is the policy of this Court that such consent must be in writing. Court Forms are available for the parties to use for purposes of recording the consent of all parties. See Plea Agreement Form, reverse side.

#### **6. Scheduling of Trial & Witness Subpoenas**

- a. **Traffic infractions involving accidents**: Where a traffic infraction case involves an accident, witnesses do not be subpoenaed for the defendant's first appearance in Court. If the case is contested or is unable to be resolved on the first appearance, the case will be set for trial and witnesses need to be subpoenaed for that second

court date. If police officers or deputies are directed by the Commonwealth's Attorney to prepare witness subpoenas in such matters, then such witness subpoenas should be submitted to the Clerk's office fully completed with only the trial date left blank; the Clerk will fill in the trial date (only) and send out for service when the trial date is set. The subpoena (with no trial date filed in) are to be filed by the deputy or police officer at the Clerk's Office with the summons. In those cases where the complainant is a civilian, the magistrate should have the complainant fill out the subpoena (leaving the date for trial blank) and attach it to the warrant so the trial date can be filled in by the Clerk.

b. **Traffic misdemeanors involving accidents:**

- i. Defendants with counsel on the first court date will have an opportunity to discuss and/or resolve their case with the Commonwealth; witnesses will not be subpoenaed for that first date. If the case is not resolved, then a new date will be set for which witnesses are to be subpoenaed.
- ii. Defendants not represented by counsel on the first court date will be advised of their charges and right to counsel and given a new date to return to Court with an attorney. Regardless of counsel status at the first date, witnesses are to be subpoenaed for the second date (unless an order has been entered specifying otherwise).

c. **Criminal and traffic misdemeanors *not* involving accidents:**

Witnesses are not required to be subpoenaed for the defendant's first scheduled court date, whether or not the defendant appears with counsel. At the first scheduled court date for a misdemeanor, unrepresented defendants will be arraigned and advised of their right to counsel, given court-appointed counsel if they qualify and jail has not been waived, and given a trial date. Represented defendants will be given a trial date. In either scenario, the witnesses must be subpoenaed for the next court date (unless otherwise specified by the Court).

- d. **Exceptions:** In all cases in which the defendant is in custody when arraigned, the case will be set for trial when the defendant is arraigned, and witnesses are to be subpoenaed for that next scheduled court date (unless specified otherwise by the Court).

7. **Continuances in Advance of Hearing Date**

- a. **Jailable Offenses:** If the Defendant is not present in court when a continuance motion is heard or granted in any matter involving the possibility of a jail sentence, then the Defendant is required to submit a signed written acknowledgment of the new court date to the Court within ten (10) days, unless such requirement is waived or modified by the Court. See also Va. Code §19.2-266.3.
- b. **Felony matters:** A continuance request for any felony matter must be made in court by docketed motion.

- c. **Agreed Continuance for misdemeanor or traffic infraction (“Ten (10) Day Continuance”)**: Up until ten (10) days before the **first** scheduled court date, a **misdemeanor or traffic infraction** matter may be continued by counsel of record or non-attorney, by agreed order with the Commonwealth, without the need for the motion to be docketed (see LR A:6). The new court date will be treated as a first return date to determine whether the case can be resolved without a trial, unless otherwise specified. Parties may agree to have witnesses subpoenaed for the new date, but the agreed order must set this out. An agreed continuance order that does not specify whether or not witnesses are to be subpoenaed may be rejected by the court, or designated by the Court for trial with witnesses necessary.
- d. **Telephone Continuance (traffic infractions only)**: Up until ten (10) days before the **first** scheduled traffic court date, **traffic infractions** (only) may be continued by a defendant, through the Clerk’s Office by phone or at the Clerk’s Office window. Agreement of the Commonwealth is **not** required. This process may only be used for the first continuance for traffic infractions, and the case will only be continued to the officer’s next scheduled court date. Any subsequent continuance requests must be docketed.
- e. **Change to a Court Date on Summons**: Once a summons has been served to an accused by a law enforcement officer, any request by such law enforcement officer to change or reschedule the court date and time listed on the summons shall only be accomplished via the Commonwealth’s Attorney Office and with the consent of the Court.
- f. **Subsequent Continuance Requests**: Continuance requests for all court dates after the first court appearance date must be made in court by docketed motion.
- g. Once a case is set for trial status and witnesses are subpoenaed, continuances are discouraged and will only be granted for good cause shown. See VSCR 7A:14.

## 8. **Plea Agreements**

If the parties elect to present a proposed plea agreement to the Court in any matter, the proposed agreement should be reduced to writing as follows:

- a. A completed and legible standard plea agreement form, which is available in all courtrooms. The form should include all relevant information, to include case number(s), charged or amended code section(s) and applicable VCC code(s) on amended charges. All parties, counsel and any interpreter must review and complete the back side of the form with the appropriate acknowledgements and signatures.
- b. A completed and legible plea agreement proffer and explanation form.
- c. A completed and legible DC-40 allowance form from a court appointed counsel.
- d. Any other document(s) or draft order(s), fully and legibly completed (e.g., deferred finding order, Community Corrections referral order, restitution order, etc.).

- e. All plea agreement related documents are to be submitted to the bailiff or courtroom clerk. When all paperwork is submitted as required, the courtroom clerk will pull the case file and make the same available to the Court.

## **9. Preliminary Hearings**

- a. **Ancillary misdemeanors**: Felony preliminary hearings matters may at times have a related misdemeanor charge(s) also scheduled on the docket. The Court will not conduct a felony preliminary hearing and misdemeanor trial simultaneously, absent the express consent of the accused or a ruling of the Court made prior to the commencement of the preliminary hearing. Thus, any evidentiary hearing commenced on a preliminary hearing docket will be for hearing on the felony matter(s) only unless otherwise expressly ordered by the Court. Any misdemeanor not certified pursuant to Va. Code § 19.2-190.1 will be rescheduled for proceedings before this Court on another date and time unless dismissed, nolle prosequi, or otherwise addressed by the Court or parties.
- b. **Amendment of felony charge(s)**: In any felony matter in which the Commonwealth elects to amend or modify the felony charge, the Commonwealth Attorney must make all applicable amendments to the face of the felony warrant, to include amending to the applicable code section, VCC code and summary statement of the alleged offense. The defendant and defense counsel will be asked to endorse or initial any amendments on a felony warrant as seen and acknowledged.
- c. **Courtroom recording system**: Counsel are free to make use of the courtroom recording system, if available, for the audio recording of a hearing. However, responsibility for operation of the courtroom recording system rests with the counsel using such system, and counsel must provide their own media (e.g., CD, DVD, USB drive, etc.). Upon request, alternative recording methods may be permitted, in the discretion of the presiding judge. No recording of a proceeding in the Court may occur without the knowledge and consent of the presiding judge.

## **10. Driving Under the Influence Cases**

- a. **Scheduling of cases involving blood test evidence**: In matters charged pursuant to Virginia Code §18.2-266 or a related offense (“DUI”) which involve evidence related to the testing of a blood sample, there has been a high demand for DFS expert witness testimony and a low availability of trial dates. Therefore, cases involving such matters will not be scheduled for trial on a blood sample evidence docket date unless and until both parties affirm to the Court that the matter is ripe for trial and no further continuance requests are expected. Until such a status is affirmed to the Court by the parties, the case will only be scheduled for a review status on the officer’s regularly scheduled court date. Once such a case has been scheduled by the Court for trial on designated blood sample evidence designated trial date, continuances are strongly discouraged.
- b. **Victim Impact Panel**: The Court finds it appropriate and in the public interest to require attendance at a “victim impact” educational program for any defendant

convicted of an offense involving a DUI. Therefore, this Court, as a term of any probationary sentence for such a conviction, will include a special provision requiring a defendant to complete the locally available “Victim Impact Program” within 90 days of conviction, absent good cause shown.

- c. **Enhanced Supervision Probation:** In an effort to reduce recidivism rates for repeat DUI offenders or DUI offenders with elevated blood alcohol levels, this Court requires enhanced supervision and probation requirements for such offenders. This is based on studies and statistics that have shown that such offenders are at much higher risk to reoffend. To minimize the risk of such recidivism, this Court requires, absent good cause shown, that:
- i. Any defendant convicted of DUI with a blood alcohol level of .15 or higher shall be subject to this enhanced supervision policy.
  - ii. Any defendant who is charged with DUI with a blood alcohol level of .15 or higher, but is convicted of a DUI with a blood alcohol level of less than .15, shall be subject to this enhanced supervision policy.
  - iii. Any defendant convicted of a second offense of DUI shall be subject to this enhanced supervision policy.
  - iv. Any defendant who is charged with or convicted of a first offense DUI, when in fact the defendant has a prior DUI conviction in Virginia or out of state, may be subject to this enhanced supervision policy.
  - v. Any defendant who is charged with DUI, first offense, whose record shows a prior DUI charge which was reduced to a reckless driving conviction, may be subject to this enhanced supervision policy.
  - vi. The enhanced supervision policy shall consist of the following, if not already included as a term of the probationary sentence:
    - a. Supervised probation by the Department of Community Corrections (DCC) for a minimum of 12 months;
    - b. Completion of the Virginia Alcohol Safety Action Program (VASAP) or a VASAP approved alternative program;
    - c. Completion of the Victim Impact Panel (VIP) within 90 days after sentencing;
    - d. An appearance in this Court for a compliance review hearing, approximately 90 days after conviction (and any future dates deemed necessary), before the sentencing judge, to review the defendant’s compliance with enhanced supervision. Both DCC and VASAP shall provide a compliance report to the Court, the defendant, defense counsel and the Commonwealth’s Attorney no less than two (2) business days prior to this hearing.
    - e. If DCC or VASAP provides an indication of non-compliance by the defendant, the Court may issue a Rule to Show Cause or other process against the defendant, to show cause, if any he or she can,

why the defendant's probation should not be revoked or otherwise modified.

- f. If the defendant is on a waiting list for class and/or treatment or has been unable to commence his or her enhanced supervision requirements through no fault of his or her own, the Court may schedule additional compliance review hearings, in its discretion.

## **11. Requests related to Restricted Driving Privileges**

- a. On the date of conviction and/or suspension, this Court requires a valid driver transcript and history from the licensing state's department of motor vehicles, current within fourteen (14) days, to accompany any request made for restricted driving privileges. Any restricted driving privilege request made without a proper driver transcript will not be considered.
- b. After the date of conviction and/or suspension (i.e., post-conviction), any restricted driving privilege request, modification or motion must include the following:
  - i. DMV Transcript (or licensing state equivalent)
  - ii. DMV Compliance Summary (or licensing state equivalent)
  - iii. Letter of good standing from ASAP/CCP (as applicable)
  - iv. Copy of any court order for child visitation and/or custody (if applicable)

Any such requests may be made administratively by submitting all of the appropriate documentation through the Clerk's Office to the attention of judicial chambers with the requested court action clearly indicated in writing. A copy of any filing(s) should be provided to the Commonwealth as required under VSCR 1:12. The Court will review the filings and grant or deny the request as appropriate, or may designate the matter to be docketed for an in person hearing on the merits of the requested action.

*Note:* Any request for restricted driving privileges based on an out of state conviction or suspension must be docketed for hearing.

- c. A restricted driving license or order will generally be available for pickup within two (2) business days of the Court granting the request. Paperwork will only be released during Clerk's Office operating hours, and only to the named defendant, in person.

## **12. Court Appointed Counsel**

- a. **Timesheets:** Any counsel appearing in a criminal or traffic case as court appointed counsel must submit their DC-40 Allowance form (i.e., timesheet) at the same time that the matter is concluded in this Court. Failure to submit an allowance form in a timely matter may result in a denial of court appointed counsel fees.

*Exception:* Procedures for submission of allowance forms from the Office of the Public Defender are subject to and controlled by a separate agreement with the Court.



### **13. Payment of Fines, Court Costs and Civil Penalties**

- a. Fines, court costs and civil penalties in certain matters may be made prior to the scheduled court date. Pre-payment is only permitted for certain offenses authorized by statute or by the Virginia Supreme Court. Pre-payment is not permitted on the date of the scheduled court hearing. Pre-payment constitutes an admission of guilt.
- b. All pre- or post-judgment payment of fines, court costs or civil penalties may be made in-person, by mailed check, or online via the Virginia Judicial System Case Information website (access via [www.vacourts.gov](http://www.vacourts.gov)). Certain processing fees may apply based on form of payment.
- c. All fines, court costs or civil penalties imposed by the Court upon conviction in a traffic, criminal or related matter are due and payable on the date of judgment. See Va. Code §19.2-339, *et seq.* A party unable to pay any ordered fines, court costs or civil penalties on the date of judgment may request a payment agreement. This Court does not require a written payment agreement unless a party needs more than ninety (90) days to pay. Interest will not begin to accrue until 180 days past due. See the Court's published Payment Agreement Policy, as revised (**Appendix C**).

**LGDC COURT DOCKET SCHEDULE - EFFECTIVE 1/1/2022**

<b>COURTROOM #2F (CIVIL &amp; TRAFFIC)</b>					
	<b>MONDAY</b>	<b>TUESDAY</b>	<b>WEDNESDAY</b>	<b>THURSDAY</b>	<b>FRIDAY</b>
<b>8:30 AM</b>	CIVIL RETURNS & MOTIONS	SMALL CLAIMS DOCKET	CIVIL RETURNS & MOTIONS	CIVIL RETURNS & MOTIONS: 2 <sup>nd</sup> , 3 <sup>rd</sup> Thurs  CT. COSTS/Fines: 1 <sup>st</sup> Thur CIVIL TRIALS (2): 4 <sup>th</sup> Thurs in: Feb /April /June / Aug/ Oct/ Dec  <i>Designated Judge Docket:</i> 4 <sup>th</sup> Thursdays in: Jan /Mar May /Jul /Sep /Nov (only)	TRAFFIC: LCSO
<b>10:00 AM</b>	CIVIL RETURNS & MOTIONS	TRIALS:  UD (1) <u>or</u> PO (1)	CIVIL RETURNS & MOTIONS	UD (2) <u>or</u> UD (1) & PO's (2): 1 <sup>st</sup> , 2 <sup>nd</sup> , 3 <sup>rd</sup> Thursdays; and 4 <sup>th</sup> Thursdays in: Feb / Apr / June /Aug /Oct /Dec  <i>Designated Judge Docket:</i> 4 <sup>th</sup> Thursdays in: Jan /Mar May /Jul /Sep /Nov (only)	TRAFFIC: LCSO
<b>1:00 PM</b>	CIVIL TRIALS (3)	CIVIL TRIALS (3)	CIVIL TRIALS (3)	CIVIL TRIALS (3) 1 <sup>st</sup> , 2 <sup>nd</sup> , 3 <sup>rd</sup> Thursdays; and 4 <sup>th</sup> Thursdays in: Feb /Apr / Jun /Aug /Oct /Dec  <i>Designated Judge Docket:</i> 4 <sup>th</sup> Thursdays in: Jan /Mar May /Jul /Sep /Nov (only)	TRIALS: UD (2) or PO's (2)
<b>1:30 PM</b>	CIVIL TRIALS (2)	CIVIL TRIALS (2)	CIVIL TRIALS (2)	1 <sup>st</sup> - 3 <sup>rd</sup> Thursdays: TRIALS: UD (2) or PO's (2)	

<b>COURTROOM #1D (TRAFFIC)</b>					
	<b>MONDAY</b>	<b>TUESDAY</b>	<b>WEDNESDAY</b>	<b>THURSDAY</b>	<b>FRIDAY</b>
<b>8:30 AM</b>	MOTIONS	MOTIONS	MOTIONS	MOTIONS	MOTIONS
<b>8:30 AM</b>	STATE POLICE	LCSO 1 <sup>st</sup> , 2 <sup>nd</sup> , 3 <sup>rd</sup> 4 <sup>th</sup> – DUID/DWI-BLOOD TRIALS (8)	STATE POLICE MWAA	LCSO	MWAA /MPD /PPD
<b>11:15 AM</b>	ARRAIGNMENTS	ARRAIGNMENTS	ARRAIGNMENTS	ARRAIGNMENTS	ARRAIGNMENTS
<b>1:30 PM</b>	LCSO	STATE POLICE NVCC	LCSO	LCSO	-
<b>2:00 PM</b>					MENTAL HEALTH DOCKET

<b>COURTROOM #1C (CRIMINAL &amp; TRAFFIC)</b>					
	<b>MONDAY</b>	<b>TUESDAY</b>	<b>WEDNESDAY</b>	<b>THURSDAY</b>	<b>FRIDAY</b>
<b>8:30 AM</b>	MOTIONS	MOTIONS	MOTIONS	MOTIONS	MOTIONS
<b>8:30 AM</b>	LEESBURG (TRAFFIC)	LCSO CRIMINAL	LCSO CRIMINAL & CIVILIAN COMPLAINTS (CRIM)	LEESBURG CRIMINAL	SENTENCING & REV. DOCKET: VASAP /CCP/ PROB VIOL's
<b>10:00 AM</b>			ANIMAL, GAME WARDENS & FIRE MARSHALL		
<b>1:00 PM</b>	BOND MOTIONS	BOND MOTIONS	BOND MOTIONS	BOND MOTIONS	BOND MOTIONS
	PRELIMINARY HEARINGS	PRELIMINARY HEARINGS	PRELIMINARY HEARINGS	PRELIMINARY HEARINGS	-
<b>1:30 PM</b>					1 <sup>st</sup> & 3 <sup>rd</sup> : UD/PO Trials 2 <sup>nd</sup> & 4 <sup>th</sup> : VDOT

In the 20th Judicial District, the Loudoun County General District Court shall require all litigants who prosecute debt collection actions, including secondary consumer debt purchase cases, to comply with the following Best Practices Guidelines.

### **Best Practices Guidelines for Debt Collection Cases Loudoun County General District Court**

**Preamble:** The past decade has seen a significant increase in the number of primary and secondary consumer debt cases being filed in courts across the country. Many courts have responded with specific guidelines that inform litigants of the necessary minimum documentary proof requirements needed to obtain a judgment in these cases. Courts across the Commonwealth, including but not limited to Fairfax County, the City of Newport News, and the City of Richmond General District Courts have adopted Best Practices Guidelines which set forth specific proof requirements to ensure the integrity and validity of judgments entered by the Court in these cases.

The General District Court Judges of the 20th Judicial District, to ensure due process, fairness to all litigants, and to improve efficiency in the administration of justice find it prudent to implement these Best Practices Guidelines in consumer debt collection actions. As they pertain to debt purchase claims, they reflect the basic legal principle that an assignee, standing in the shoes of the assignor, may produce no less information than what would have been required of its predecessor in interest. Such guidelines shall inform all litigants of the court's expectations and proof requirements regarding these cases.

#### **Best Practices Guidelines:**

Supreme Court of Virginia Rules (VSCR) 1:4(a) and 7A:8, "General Provisions as to Pleadings" require counsel tendering a pleading to give assurance as an officer of the Court that it is filed in good faith. In addition to the Rule requirements, the General District Court Judges of the 20th Judicial District shall require in consumer debt collection actions, including secondary consumer debt purchase claims, the following:

1. **Style of the Case / Identifying the Parties to the Claim:** If the claim is a secondary consumer debt purchase claim, then the claim shall be filed in the name of the current creditor as assignee of the original creditor notwithstanding the provision in Va. Code Section 8.01-13 that permits the assignee to sue in his own name. By bringing the claim in the name of the current creditor as assignee of the original creditor, the consumer debtor will be better apprised of the basis of the lawsuit.

For example: *We Own the Debt Now, Inc., Assignee of We First Loaned the Money, Inc., Plaintiff v. I Don't Owe A Thing, LLC, Defendant.*

For example (with registered agent): *We Own the Debt Now, Inc., Assignee of We First Loaned the Money, Inc., Plaintiff v. I Don't Owe A Thing, LLC, Defendant (R/A, Ronnie Agency).*

2. **Basis for the claim/Written Instrument:** If the basis for the claim is a written contract, note, or other written instrument, then the original document shall be produced and

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tendered to the Court unless production of the original is excused by the Court for good cause or by statute. (VSCR 7B:5.) If the original document cannot be located, a lost document affidavit shall be submitted. (Va. Code § 8.01-32)

3. **Proof of Assignment**: Plaintiff shall attach to the Warrant in Debt all documents supporting the full chain of the assignment or other documentary evidence establishing that the plaintiff/creditor is the owner of the debt. If the debt has been assigned more than once, then each assignment or other writing evidencing transfer of ownership must be submitted to establish an unbroken chain of ownership. Each assignment or other writing evidencing transfer of ownership must contain the debtor's name and the account number associated with the debt.
4. **Proof of Amount Owed**: Plaintiff shall submit all documents containing the amount claimed as currently owed, broken down by principal due at the time of default, interest, fees, and other charges. If the claim is based upon a credit card account, then the plaintiff shall produce, in addition to the above, at least one statement showing defendant's actual use of the credit card.
5. **Open Account**: If the claim is a secondary consumer purchase debt claim and is based on an open account, then plaintiff must produce a copy of the account if there is one. (Va. Code § 16.1-88.) To establish the account, plaintiff may submit a copy or copies of billing statements generated by the original creditor or, if not available, other records with sufficient indicia of reliability which may include electronic files so long as they contain detailed information such as the date the account was open, with whom, the original account number, debit/payment histories, the date the account was charged off, and the amount due on the account.
6. **Attorney's fees**: Absent a specific contractual or statutory provision, attorney's fees are not recoverable by the prevailing party. All requests for attorney's fees based upon a contractual provision must be supported by either the original signed contract or by a lost document affidavit with a copy of the signed contract attached. Plaintiff should tab and highlight, underline or circle the relevant provision in the signed agreement.
7. **Interest**: Absent a specific contractual or statutory provision, interest awarded will be awarded at the judgment rate established by Virginia statute unless the Virginia rate is preempted by a specific federal law or regulation or by exportation of the laws of the home state per federal law, in which case the preemption must be documented for the Court. Plaintiff should tab and highlight or circle the relevant provision in the signed agreement.
8. **Compound Interest**: Compound interest is not allowed under Virginia law unless (a) provided by the contract, or (b) preemption of Virginia law by a specific federal statute or regulation, or (c) exportation of the laws of the home state per federal law, in which case the preemption must be documented for the Court. Plaintiff should tab and highlight or circle the relevant provision in the signed agreement.
9. **Affidavit**: If judgment is requested on the affidavit, then, the affidavit must contain sufficient allegations of fact to:

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- a. Inform the defendant as to the basis of the plaintiff's claim and include the identity of the original creditor;
  - b. Establish the chain of title/transfers of the account from the original creditor to the current plaintiff (notwithstanding Va. Code § 8.01-279);
  - c. Statement that the affiant is not only familiar with the account but has examined the documents establishing the basis of the plaintiff's claim including documents which establish chain of transfer of the account and plaintiff's ownership of the account; and
  - d. The affidavit should be signed by an authorized individual who is plaintiff/agent of plaintiff, other than plaintiff's counsel. (See LEO 1849)
10. **Return Day:** If the defendant appears at the return docket and confesses judgment, then the Court shall enter judgment on the case as filed.

If the defendant appears and disputes the claim, then the Court shall set the case for trial on the court's contested trial docket.

If the defendant is in default, the plaintiff may ask the court to note the default on the file and schedule an *ex parte* proof hearing; or the plaintiff may request judgment on the affidavit (if applicable). If requesting judgment, plaintiff shall submit the case to the court for entry of judgment with all documentary evidence attached as required by the Court's Best Practices Guidelines. The Court shall note the request for judgment and default of the defendant, but will not enter judgment at that time. At the conclusion of the docket, the Court will retire to chambers to closely examine each default case to determine the completeness and accuracy of the case documents. The Court refers to this as Post Docket Review ("PDR"). If the Court finds during PDR that the file is complete and satisfies the Best Practices Guidelines requirements and any applicable provisions of law, then the Court shall enter judgment as requested.

If the Court finds the file is incomplete, fails to satisfy the Best Practices Guidelines requirements, or fails to satisfy all applicable provisions of law, then the Court shall decline to enter the requested judgment and note the deficiency on the file. The Court will then schedule the matter for another date on the court's return docket for plaintiff to appear and present *ex parte* proof or argument on the deficient issue.

The Clerk will not contact counsel or the parties to notify counsel or the parties of the Court's PDR decision; rather, the responsibility rests with the parties to verify the status or scheduling of case via the online Virginia Judicial System Case Information website ([www.courts.state.va.us](http://www.courts.state.va.us)). Online case information should be updated within three (3) business days of the docket call.

An *ex parte* proof hearing date, if required, shall be set not more than 90 days from the original return date. If the authenticity of the claim cannot be established on the *ex parte* proof hearing date, then the Court shall dismiss the claim without prejudice or, upon

plaintiff's motion, the court may enter an order of non-suit providing no previous non-suit has been entered on that claim.

11. **Trial:** If the plaintiff/creditor is not prepared for trial on the assigned contested trial date and the defendant/debtor appears and is ready for trial, the Court may:

- a. Dismiss the claim with or without prejudice;
- b. Take other action such as continuing the case at the request of either party, upon good cause shown; or
- c. Enter such order(s) as justice requires, including potentially awarding costs to the defendant/debtor.

If the defendant/debtor either fails to appear or is not ready to proceed to trial on the assigned trial date, but the plaintiff/creditor does appear and is ready for trial, the Court may:

- a. Grant judgment by default if defendant does not appear pursuant to the Court's procedure as outlined herein; or
- b. Take such other action such as continuing the case at the request of the plaintiff/creditor, upon good cause shown; or
- c. Enter such order (s) as justice requires, including potentially awarding costs to the plaintiff/creditor.

If neither the plaintiff nor the defendant appear on the assigned trial date or both parties appear and neither is ready to proceed to trial, the Court may:

- a. Dismiss the claim without prejudice; or
- b. Take other action such as continuing the case; or
- c. Enter such order(s) as justice requires.

**Effective February 1, 2022.**

## Payment Agreement Policy For The Loudoun County General District Court

Revised July 1, 2021

1. **Payment Agreements are Available.** If you cannot pay your fines and/or court costs on the date of judgment, you may enter into either a Deferred Payment Agreement, a Modified Deferred Payment Agreement, or an Installment Payment Agreement.
2. **Deferred Payment Agreements.** Under this agreement, you agree to pay the full amount due at the end of the stated term and no installment payments are required.
3. **Installment Payment Agreements.** Under this agreement, you agree to pay in monthly or other periodic payments, until the full amount due is paid in full.
4. **Modified Deferred Payment Agreement.** Under this agreement, you agree to use best efforts to make monthly or other periodic payments to pay the amount due in full.
5. **Payment Agreement Fee.** For any payment agreement, you pay a one-time fee of \$10.00.
6. **Accrual of Interest.** No interest shall accrue on any fines and/or court costs (i) for a period of 180 days following the date of judgment; (ii) during any period of incarceration; and (iii) for a period of 180 days following the date of release from incarceration, if the sentence included an active term of incarceration.
7. **Length of Time for Payment Agreements.** In determining the length of time to pay under a deferred, modified deferred or installment payment agreement, the Court shall consider your financial resources and obligations, including any fines and costs you owe in other courts. In assessing your ability to pay, the Court shall use a written financial statement on a form provided by the Supreme Court or conduct an oral examination.
8. **Modification of Deferred, Modified Deferred or Installment Payment Agreements during the Term of the Agreement.** At any time during the term of the deferred, modified deferred or installment payment agreement, you may request a modification of the agreement in writing on a form provided by the Supreme Court and the Court may grant such modification based on a good faith showing of need. You must apply for a modification before the payment agreement ends.
9. **Re-entry into a Deferred, Modified Deferred or Installment Agreement after Default.**
  - a. If you have a Deferred or Modified Deferred Agreement and you fail to pay in full, as agreed, before the agreement ends, you are in default and the payment agreement terminates.
  - b. If you have an Installment Agreement and you fail to pay any installment on or before the due date, you are in default and the payment agreement terminates.
  - c. After a default and termination of the payment agreement, the Court shall consider a request to enter into a subsequent payment agreement. The Court shall consider any change in your circumstances. A down payment may be required for a subsequent payment agreement, provided that (i) if the full amount due is \$500 or less, the required down payment shall not exceed ten percent (10%) of the amount due or (ii) if the full amount due is more than \$500, the required down payment shall not exceed five percent (5%) of the full amount due or \$50, whichever is greater.
  - f. After a default and termination of a payment agreement, your case may be sent to collection for satisfaction of all amounts outstanding. Such collection procedures may include, but not be limited to, garnishment of accounts, wages and/or tax return refunds.
10. **Change of Address.** You must inform the Court promptly of any change of address during the term of any payment agreement.
11. **Methods of Payment.** The Court accepts cash, personal checks, money orders and MasterCard, Discover and VISA debit and credit cards. If you use a debit or credit card, a 4% convenience fee is added to each payment. Do not send cash by mail.
12. **Community Service-Fine Option Plan.** If you are unable to pay a fine and/or court costs, you may apply to the Court for the Fine Option Plan and perform community service in lieu of paying fines and/or costs. Community service is never allowed as a substitute for restitution (money owed to a victim of a crime). To apply to perform community service, you must submit a motion to the Court. If approved by the Court, community service must be performed on time within the time period granted and at the rate provided in the plan. Credit will be applied at the minimum wage in Virginia (currently \$9.50 per hour). Community service is supervised by a probation officer with the Department of Community Corrections (DCC). Only one opportunity will be allowed for community service during any one year period. At the time of approval of the Fine Option Plan, you shall sign Form DC-210, Time to Pay Agreement. If you default on the Fine Option Plan and do not otherwise pay your fines and/or costs, your case may be sent to collection.

**ORDER:** The above policies are revised and adopted for the Loudoun County General District Court as of July 1, 2021 pursuant to Section 19.2-354.1 of the 1950 Code of Virginia, as amended.

  
Deborah C. Welsh, Chief Judge