

VIRGINIA: IN THE CIRCUIT COURT FOR MIDDLESEX COUNTY

In re: LOCAL RULE GOVERNING SCHEDULING CIVIL MOTIONS AND
SETTING CIVIL CASES FOR TRIAL

**ORDER ESTABLISHING LOCAL RULE
GOVERNING SCHEDULING OF CIVIL CASES**

Pursuant to Virginia Code Section 8.01-4 and Rules 1:15, 1:20, and 4:15(a) of the Rules of the Virginia Supreme Court, the Court prescribes the following local rule governing the scheduling of civil motions and civil cases for trial in the Circuit Court for Middlesex County.

1 PART 1: TITLE AND CONSTRUCTION

1.1. Title: This Rule is known as the Middlesex Local Rule Regarding Scheduling of Civil Cases (hereinafter “Rule”) and may be cited as “Middlesex Sched. R.” Specific subparts may be cited by number (*e.g.*, “Middlesex Sched. R. 1.1”).

1.2. Purpose: This Rule supersedes the Local Rule established by Order entered by Judge Jeffrey Shaw on September 15, 2015, which is now outdated given the change in Docket Call dates for Middlesex County.¹

1.3. Applicability: This Rule applies to all civil actions before the Circuit Court for Middlesex County. If a party is acting *pro se*, reference in these rules to “counsel” means self-represented litigants, except where otherwise provided.

1.4. Construction: This Rule is issued pursuant to Virginia Code Section 8.01-4 and Rules 1:15, 1:20, and 4:15(a) of the Rules of the Virginia Supreme Court, the Court having determined they are necessary to promote proper order and decorum of civil matters before the Middlesex County Circuit Court. This Rule may be supplemented or modified in a particular case at the discretion of the presiding judge.

¹ See October 10, 2024 Order Setting Terms of Court, which changed docket call dates beginning July 1, 2025.

2 PART 2: SCHEDULING MOTIONS

2.1. Requirement to Confer: Rule 4:15(b) of the Rules of the Supreme Court of Virginia requires that every notice of hearing “be accompanied by a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action.” Accordingly, counsel must confer with each other and *pro se* parties to decrease, in every way possible the filing of unnecessary motions, and to narrow the issues to be decided by the court. Absent binding authority to the contrary, a duty to confer to resolve a dispute without court action—whether imposed by the Rules of the Supreme Court or by order—will be interpreted to require consultation in person or by telephone to explore the possibility of resolving or narrowing the matters in controversy.

2.2. Procedure: After filing the motion, the moving party must contact support staff at (804) 693-1358 to advise the type of motion filed and the expected length of the hearing, and to obtain the dates and times available for the hearing. The moving party must then contact the opposing counsel and agree on a hearing date. Once a hearing date is agreed, the moving party must contact support staff at (804) 693-1358 to advise of the chosen date. The days offered are not held and could be rendered unavailable if counsel does not act promptly. Once a date is finalized, the moving party must file and serve the appropriate Notice of Hearing, listing the date and time scheduled, the name of the motion to be heard, and the time allotted by the Court.

2.3. Hearing: Only motions scheduled pursuant to this Rule will be heard on the scheduled date and time. No motions may be added to a scheduled date and time without prior approval of the Court. Any motions not scheduled pursuant to these rules will not be heard.

2.4. 10-day Rule: Counsel are expected to respond promptly to a request to schedule a motions hearing. Should counsel fail to respond in a reasonable time, the moving party may then fax or email to opposing counsel three (3) available motion dates and times along with notice that after ten (10) days without a response, the moving party will seek to schedule the hearing on one of the provided dates and times. Should opposing counsel fail to respond within ten (10) days of such fax or email, the moving party may then schedule the hearing on one of the provided dates and times.

2.5. Removal or Rescheduling: No hearing will be removed or rescheduled unless the moving party notifies the Court.

3 PART 3: SETTING CIVIL CASES FOR TRIAL

Docket Call

3.1. Terms of Court & Docket Call: Term Day is the first Tuesday in February, April, June, August, October, and December. Docket Call is held each Term Day at 10:00 am.

3.2. Setting Cases: Except as otherwise provided in this Rule, civil cases must be set prior to and outside of Docket Call using the procedures outlined below.

Praecipes

3.3. Praecipe Required: Except for appeals from the district courts or cases for divorce, affirmation, or annulment, a *Praecipe* must be filed prior to setting the case for trial. The *Praecipe* must be filed at least eleven (11) days prior to Term Day.

3.4. Available Dates: No later than the Wednesday prior to Term Day, counsel must fax their available dates to support staff at (804) 693-1755, indicating the expected length of trial and whether a jury is demanded. Should any counsel fail to submit their available dates as required, such counsel and their party will be deemed to have waived any objection to the chosen trial date.

In the alternative and by preference of the Court, the party filing the *Praecipe* may obtain all participants' mutually agreeable available dates, and fax to support staff a list of dates that are agreeable to all participants, along with the expected length of trial and whether there is a jury demand.

3.5. Order Setting Trial: Once the trial date is determined, the Court will enter an Order Setting Trial which will (i) establish the trial date, the length of trial, and whether the trial is with a jury; (ii) direct the preparation of a Uniform Pretrial Scheduling Order pursuant to Rule 1:18; and (iii) refer, where appropriate, the matter to a Settlement Conference using the Judicial Settlement Conference Program pursuant to Rule 1:19.

3.6. Failure to Comply: Should the parties fail to comply with the procedures outlined above or the Order Setting Trial, the Court will remove the scheduled trial date, and a new *Praecipe* will be required.

Appeals

3.7. Notice of Appeal: Except for the protective order appeals listed in Sections 3.10(i) or 3.10(ii) below, when a case is appealed from a district court, the district court clerk should indicate on the Notice of Appeal the date the case “is scheduled to be called for setting of trial date,” which date should be Term Day.

3.8. Available Dates: No later than the Wednesday prior to the Term Day indicated in the Notice of Appeal, counsel must fax their available dates to support staff at (804) 693-1755, and indicate the expected length of trial and whether a jury is demanded. Should any counsel fail to submit their available dates as required, such counsel and their party will be deemed to have waived any objection to the chosen trial date.

In the alternative and by preference of the Court, the party filing the Notice, or any counsel involved in the appeal, may obtain all participants’ mutually agreeable available dates, and fax to support staff a list of dates that are agreeable to all participants, along with the expected length of trial and whether there is a jury demand.

3.9. Order Setting Trial: Once the trial date is determined, the Court will enter and Order Setting Trial which will (i) establish the trial date, the length of trial, and whether the trial is with a jury; (ii) direct, where appropriate, the preparation of a Uniform Pretrial Scheduling Order pursuant to Rule 1:18; and (iii) refer, where appropriate, the matter to a Settlement Conference using the Judicial Settlement Conference Program pursuant to Rule 1:19.

3.10. Protective Orders: Appeals of protective order hearings should be scheduled pursuant to the following procedures, depending on the type of protective order and the result of the hearing in district court.

i. *Family Abuse Protective Order GRANTED (Va. Code § 16.1-279.1):*

When a family abuse protective order is issued pursuant to Virginia Code § 16.1-279.1 (FORM DC-650) and is appealed from a district court, the district court clerk should confer with the Circuit Court clerk’s office to pick a trial date and indicate on the Notice of Appeal the date the case “is scheduled to be called for trial.”

ii. *Protective Order GRANTED (Va. Code § 19.2-152.10):* When a protective order is issued pursuant to Virginia Code § 19.2-152.10 (FORM DC-385) and is appealed from a district court, the district court clerk should confer with the Circuit Court clerk’s office to pick a trial date and indicate on the Notice of Appeal the date the case “is scheduled to be

called for trial.”

- iii. *All other Protective Orders*: When any protective order not listed in 3.10(i) or 3.10(ii) above is appealed (regardless of whether the protective order was issued or the petition was denied), the district court clerk should indicate on the Notice of Appeal the date the case “is scheduled to be called for setting of trial date,” which date must be a Term Day, at 10:00 a.m.

3.11. Termination of Parental Rights: When a case involving termination of parental rights is appealed from the district court, the district court clerk should indicate on the Notice of Appeal the date the case “is scheduled to be called for setting of trial date,” which date must be a Term Day, at 10:00 a.m. Promptly after the Notice of Appeal is filed, counsel involved in the appeal should confer with each other and contact support staff at (804) 693-1358 to schedule the matter for trial.

3.12. Cutoff: Should an appeal be noted less than ten (10) days prior to the next Term Day, the appeal must be scheduled using these procedures for the following Term Day.

Divorce, Affirmation, or Annulment

3.13. Praecipe not required: A *Praecipe* is not required in cases involving divorce, affirmation, or annulment.

3.14. Local Rules: The Judges of the Ninth Judicial Circuit have adopted additional local rules applicable to actions for divorce, spousal support, equitable distribution, or custody and visitation. These rules are available in the Clerk’s Office.

3.15. Prehearing Conference: After any *pendente lite* issues have been resolved, the parties must schedule a prehearing conference with the Court.

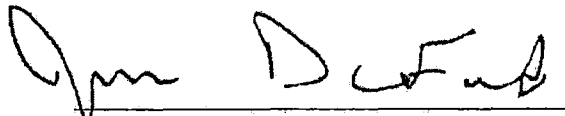
3.16. Setting Trial: At the conclusion of the prehearing conference, the matter will be set for trial, as necessary. If a trial date is established, the Court will direct the preparation of a Uniform Pretrial Scheduling Order pursuant to Rule 1:18 and refer the matter to a Settlement Conference using the Judicial Settlement Conference Program pursuant to Rule 1:19.

Pro Se Parties

3.17. Counsel should make every reasonable effort to contact any *pro se* parties to set cases in advance of Docket Call using the procedures outlined herein. In the event counsel is unable to contact the *pro se* party, the case must be set at Docket Call. To avoid appearing at Docket Call, counsel may, no later than the Wednesday prior to Docket Call, fax their available dates to support staff at (804) 693-1755, advise the expected length of trial, and advise whether a jury is demanded.

The Court DIRECTS the Clerk of the Middlesex Circuit Court to file a copy with the Executive Secretary of the Supreme Court, spread a copy of this Order upon the respective order books, post a copy with the date of entry in the clerk's office, furnish a copy to the attorneys regularly practicing before the Circuit Court, and furnish a copy to the clerks of the Middlesex General District and Juvenile and Domestic Relations District Courts.

Entered this 2nd day of July, 2025.



Joshua P. DeFord, Presiding Judge