



Circuit Court of Arlington County

1425 North Court House Road
Arlington, Virginia 22201

WILLIAM T. NEWMAN, JR.
CHIEF JUDGE

DANIEL S. FIORE, II
JUDGE

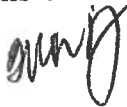
LOUISE M. DiMATTEO
JUDGE

JUDGES RETIRED
JOANNE F. ALPER
JAMES F. ALMAND
BENJAMIN N.A. KENDRICK
PAUL F. SHERIDAN
CHARLES H. DUFF
CHARLES S. RUSSELL
(JUSTICE RETIRED)

MEMORANDUM

TO: Presiding Circuit Court Judges
Circuit Court Judicial Chambers Staff
Paul Ferguson, Clerk Of the Court, Arlington County Circuit Court
Theophani Stamos, Commonwealth's Attorney
Matthew Foley, Public Defender
All Attorneys Practicing Before the Arlington County Circuit Court

CC: Steve Spurr, Clerk of the Court, Arlington General District Court
Amy Burnham, Clerk of the Court, Arlington Juvenile & Domestic Relations Court
Lekha Varghese, Clerk of the Court, Falls Church General District Court

FROM: Chief Judge William T. Newman, Jr. 

DATE: December 12, 2013 (Corrected)

RE: MODIFICATIONS TO COURT'S CALENDAR AND FILING REQUIREMENTS ;

As of January 1, 2014, for the purpose of judicial efficiency and economy, the Court adopts the following changes:

Calendar:

- A. Criminal Term. Until July 2014, Criminal Term Day will be at 9:30 a.m. on the Thursday following the Monday Grand Jury. Beginning July 1, 2014 the Court's Criminal Term shall begin the first Monday (or the next business day of the Court if the Monday falls on a day the Court is closed) of each month beginning July 7, 2014. The Criminal Term Day Docket shall begin at 9:30 a.m.

- B. **Civil Term.** Prior to July 2014, Civil Term Day will be the Third Tuesday in February and the Third Monday in April at 2:00 p.m. Effective July 1, 2014 the Court's Term shall begin the first Monday (or the next business day of the Court if the Monday falls on a day the Court is closed) of July, September, November, January, March, and May of each year, with July 2014 Term Day beginning July 7, 2014. The Civil Term Day Docket shall begin at 2:00 p.m.
- C. **Criminal Motions Docket.** Beginning January 1, 2014, motions in criminal cases will be scheduled at 9:30 a.m. on the 1st or 3rd Thursday of each month and at 9:30 a.m. on the same day the Court has scheduled Civil Term Day (see, preceding paragraph B). In the event of an emergency, expressly provided through judicial chambers, the Court may otherwise permit the scheduling of a motion.
- D. **Habitual Offender Docket.** Beginning February 1, 2014, habitual offender cases will be called on the 1st Monday of each month at 9:30 a.m. for adjudication.
- E. **Grand Jury.** Beginning June 2014, each month when a grand jury is called, it shall convene on the last Monday of that month.

Civil Motions Filing Requirements (Beginning January 1, 2014):

- A. **Filing Requirements for Dispositive Motions and Certain Discovery Motions.** Regarding civil motions to be heard on a Friday, if the motion is dispositive as to any count in the complaint or defense, including judgments by default, the motion and any supporting material a party wishes the Court to consider must be filed by 4:00 p.m. **two Fridays** before the date to be set for presentation of the motion. Likewise, discovery motions, except where the motion is based on an allegation of failure to serve a response or objection to a discovery request within the required time frame or a failure to appear for a deposition (in these instances, see below), must be filed by 4:00 p.m. two Fridays before the date to be set for presentation of the motion, along with any supporting material a party wishes the Court to consider. If electronic filing is utilized, the filing must be no later than 11:59 p.m. instead of 4:00 p.m. Opposition to such motion shall be filed by 4:00 p.m. the Friday before the date for presentation of the motion, along with any supporting material a party wishes the Court to consider. If electronic filing is utilized, the filing must be no later than 11:59 p.m. instead of 4:00 p.m.
- B. **Filing Requirements for Non-Dispositive Motions and Discovery Where No Response Was Made.** Regarding all non-dispositive motions or discovery motions to be heard on a Friday where the motion is based on an allegation of failure to serve any response to a discovery request (as opposed to an alleged incomplete response), or where no objection to a discovery request was filed within the required time frame (as opposed to an alleged inapplicable objection), or where there was a failure to appear for a deposition, the motion must be filed by 12:00 p.m. seven (7) days before the date to be set for presentation of the motion, with a copy thereof submitted to chambers no later than 1:00 p.m. that same day, along with any supporting material a party wishes the Court to

consider. If electronic filing is utilized, the filing must be no later than 11:59 p.m. and copy to chambers is not required. The opposition must be filed by 12:00 p.m. three (3) days before the date for presentation of the motion, with a copy thereof submitted to chambers no later than 1:00 p.m. that same day, along with any supporting material a party wishes the Court to consider. If electronic filing is utilized, the filing must be no later than 11:59 p.m. instead of 12:00 p.m. and copy to chambers is not required.

Appeals From General District or Juvenile and Domestic Relations Court (Beginning January 1, 2014):

A. Criminal Appeals.

- i. Misdemeanor and Non-Custodial Juvenile and Domestic Relations Appeals. Cases properly before the Court on appeal from the General District Court of a misdemeanor conviction or traffic offense¹ or properly before the Court on an appeal from Juvenile and Domestic Relations Court from a non-custodial proceeding shall be set on the Court's regular criminal docket as it is held on the 3rd Monday (or the next business day of the Court if that Monday falls on a day the Court is closed) following the expiration of the lower court appeal period to set the matter for hearing or disposition.
 - ii. Custodial Juvenile and Domestic Relations Appeals. Cases properly appealed from the Juvenile and Domestic Relations Court involving a custodial matter shall be placed on the Court's next available regular criminal docket to set the matter for hearing or disposition.
- B. Civil Appeals. Cases properly before the Court on appeal from the General District Court or properly before the Court on an appeal from Juvenile and Domestic Relations Court shall be set on the Court's regular civil docket as it is held on the third Monday (or the next business day of the Court if that Monday falls on a day the Court is closed) following the expiration of the lower court appeal period for the purpose of setting the matter for trial.

Criminal Immediate Sanction Project Pilot Program (Beginning January 1, 2014):

- A. Description. Pursuant to Virginia Code Section 19.2-303.5 the Court will participate in the immediate sanction probation program beginning January 1, 2014. The focus will be on higher risk offenders based on an assessment by the probation officer of the risk of recidivism and record of technical violations. After entering the program, the probationer will be subject to the certainty of penalties for violating probation. For instance, for each alleged violation, the offender will immediately be arrested and brought to jail. If there is a finding of a violation, unless Virginia Code Section 19.2-303.5(3) applies, the court will order a short jail term, in addition to time served awaiting the hearing, according to the following schedule, as to each violation after entering the program:

¹ The Circuit Court does not have jurisdiction to hear an appeal of a parking ticket violation.

First Violation: 3-7 days
Second Violation: 5-10 days
Third Violation: 7-14 days
Fourth Violation: 10-20 days
Fifth Violation: 15-25 days
Sixth Violation: 20-30 days

- B. Eligible Offenders. Adults convicted of a felony and not on supervision for a violent offense, as defined by § 17.1-805, and who are under supervision within the 17th Judicial Circuit are eligible. As a condition of a sentence suspended, the Court may order the probationer in the Program. The assigned probation officer will set forth the conditions to participation in the program, consistent with the guidelines provided by the Virginia Sentencing Commission and the Court, and inform the probationer of the conditions. If the probationer enters the program and there is a probation violation, the violation hearing will be continued and the probationer will not be subject to imposition of the balance of his or her suspended time. Instead, the sanction shall occur according to the schedule provided below.
- C. Expedited Process. The Court will address alleged violations on an expedited basis. Alleged violations under this program will be placed on the Court's Monday, Wednesday or Friday 9:30 a.m. criminal dockets by the assigned probation officer.
- D. Counsel. When the probation officer places a violation on the docket, the probation officer shall at that time provide notice to the Commonwealth's Attorney and to counsel for the defendant, and counsel are required to appear in court on the date assigned.
- E. Proceedings. Unless otherwise provided herein, the Court adopts the procedures established by the Virginia Sentencing Commission consistent with its authority pursuant to Section 19.2-303.1. If the offender has repeated positive drug tests, the Court may order a full substance abuse assessment or if the Court believes the defendant to be addicted, the defendant may be referred to substance abuse treatment. The Court may remove the offender from the immediate sanction probation program at any time; however, an offender will be removed from the program if convicted of a new felony criminal offense or may be removed in the event of a new misdemeanor offense.

Electronic Filing Requirements (Beginning January 1, 2014):

- A. Initiating a New Case. Electronic filing is available for criminal and civil cases. All cases initiated with the Court shall occur by filing the necessary initial filing in paper form and in all civil case the payment of required filing fees.
- B. Filings After the Initial Pleading. After the initial filing, all subsequent filings may occur through the electronic filing system and all pleadings shall be filed as separate electronic documents, so that a notice, motion, memorandum, proposed order, or other pleading are separate electronic documents. All filings shall be in Portable Document Format (PDF). All users shall follow the filing procedures established by Clerk of Court and published by the Clerk within the electronic filing system.

- C. Case Number. The proper case number shall be placed in the style of the pleading and should the matter be a civil action that has been re-opened, the proper suffix shall be included and in a criminal action the proper suffix shall also be added to the case number to reflect the proper matter subsequent to the final disposition.
- D. Motions. A notice or praecipe setting the matter for hearing, as is practicable, must be filed at the time the motion is filed. Exhibit(s) to a motion or memorandum shall be placed at the end of the pleading referencing the exhibit(s), separately tabbed with a page separation that identifies the exhibit number, and counsel is encouraged to upload case law that is referenced in a pleading. All motions and oppositions to motions shall be accompanied by a proposed order.
- E. Attachments. The electronic filing system permits the attachment of documents to a pleading, such as exhibits to a motion, memorandum or other pleading. The attachment function shall not be used to attach one pleading to another, such as a memorandum to a motion, an order to a motion, and the like. Each pleading shall be filed as a separate upload to the electronic system.
- F. Orders. All consent orders electronically submitted for entry require endorsement by all counsel. An electronic signature is acceptable pursuant to Virginia Code Section 17.1-258.4.
- G. Rejected Filing. Counsel should inquire of the Clerk of Court the possible reasons for rejection. If there is non-compliance with the electronic filing requirements, the Clerk of Court will provide an electronic notification of non-compliance or rejection of the pleading, and the filing party shall have 48 hours from the Clerk's notification to properly re-file the pleading for the filing to relate back to the filing date and time of the rejected pleading. No changes shall be made to the pleading except those limited to bring the pleading into compliance with the filing requirements. When the pleading is re-filed, the re-filed pleading shall be served on all parties. Any party may request the Clerk of Court to obtain a copy of the rejected pleading.
- H. Court's Order Governing Electronic Filing Entered the 25th day of June 2013. Except as provided hereinbefore, the conditions of the Court's June 25, 2013 order remain.