

Fauquier County General District Court
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LOCAL RULES, PROCEDURES
AND BEST PRACTICES

Effective February 1, 2023

VIRGINIA:

IN THE TWENTIETH (20TH) JUDICIAL DISTRICT
FAUQUIER COUNTY GENERAL DISTRICT COURT

LOCAL RULES, PROCEDURES AND BEST PRACTICES
OF THE GENERAL DISTRICT COURT OF FAUQUIER COUNTY

ORDER OF ADOPTION

These Local Rules, Procedures and Best Practices of the General District Court of Fauquier County ("Local Rules") are unanimously adopted by the Judges of the Twentieth (20th) 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 up into three sections: (I) General Practice – Applicable to All Proceedings; (II) Civil Practice; and (III) Criminal & Traffic Practice. 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 30th day of January, 2023.



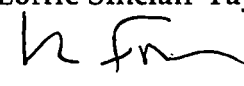
Jessica H. Foster, Presiding Judge



Deborah C. Welsh, Chief Judge



Lorrie Sinclair Taylor, Presiding Judge



William R. Fitzpatrick, Presiding Judge

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IN THE TWENTIETH (20TH) JUDICIAL DISTRICT
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Entered this ____ day of _____, 2023.

Jessica H. Foster, Presiding Judge

Deborah C. Welsh, Chief Judge

Lorrie Sinclair-Taylor, Presiding Judge

William R. Fitzpatrick, Presiding Judge

SECTION I: GENERAL PRACTICE, APPLICABLE TO ALL PROCEEDINGS

The following is an overview of the General District Court policies along with tips and suggestions for working with the Court as efficiently as possible. The Clerk's Office is located on the lower level of the courthouse at 6 Court Street. Its hours of operation are Monday through Friday, 8:00 a.m. to 4:00 p.m. The office telephone number is (540) 422-8035; fax number is (540) 422-8033. The cooperation of the staff of the Clerk's Office can be an invaluable aid to court users and attorneys. 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.

1. Access to Court Files and Copy Requests

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).

- A. 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-person at the Clerk's Office or in writing using the Court's request form and are subject to the following:
 - a. In-Person File Review of an Open/Pending Case File: In-person requests can generally be accommodated upon verbal request. While being reviewed by the requesting party, a court case file may not leave the Clerk's Office. Copies of up to two pages may be made from such file upon request during review; additional pages may require the submission of a written copy request form depending upon the availability of staff.
 - b. Review of a Closed Case File: In-person requests can generally be accommodated upon verbal request. Requests for files that have been archived must be submitted on a written request form to the Clerk's Office and the requested file will be made available at the Clerk's Office window for review within three business days and will only be held at the front counter for three business days. Case files may not leave the Clerk's Office.
 - c. Copy Requests: Copy requests may be made in writing sent via mail, email (to fauquiergd@vacourts.gov), or facsimile. Any individual or party asking for a copy of an order or other court document to be sent to them by mail must include a return self-addressed, pre-stamped envelope. Requests made without the inclusion of a self-addressed stamped envelope will not be mailed. Any individual may also request that copies be transmitted via e-mail or placed in counsel's courthouse "mailbox" (if applicable); copies

will not be faxed. Copies will be ready within two business days after the request is received.

- d. **Removal of Files:** Files may not be removed from the Clerk's Office by attorneys or by any party for any reason. All copies must be made by the Clerk's staff in the Clerk's Office. The Clerk handles the forwarding of all files to General District Court Chambers.
 - e. **Copy/Certification Fees:** A fee of \$0.50 per each page is charged for all copies made in the Clerk's Office. There is no charge for documents delivered electronically. Court-appointed counsel and attorneys for the Commonwealth shall not be charged any fees.
- B. **Digital Access:** Digital access to the Courts' files is not yet available.
- C. **Exceptions to Open Access:** Certain case files or documents within case files that are confidential or sealed by statute or court order (e.g., risk assessment instruments, civil mental health commitment hearings, documents within civil protective order case files or criminal case files) may only be accessed by legally authorized individuals with the permission of the Court/Clerk. Any person who believes he/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.

2. Filing Format & Related Requirements

- A. All court filings must conform to the Virginia Supreme Court Rules, hereinafter, "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/her address, telephone number, and e-mail address. All counsel licensed to practice law in Virginia shall include their Virginia Bar number and email address. The Court and Clerk reserve the right to require any non-conforming filings to be resubmitted 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. All filings that require a copy to be provided to the opposing party should be so certified consistent with the VSCR or other appropriate means, to include a statement of the 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.

- E. Any written request to the Clerk for performance of an administrative act or duty may be made by letter or the equivalent communication.
- F. 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. *For example*, counsel requesting an 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 with notice to the opposing side. Requests for substantive court actions will not be recognized if made solely by means of an e-mail, letter, or other informal communication to the Court.
- G. Filings, pleadings, and/or orders may be submitted via facsimile to (540) 422-8033 or submitted by email to: fauquiergd@vacourts.gov. It is incumbent upon the filing party to verify with the clerk that any pleadings submitted electronically have been received and, if a specific action is requested, it shall be incumbent upon the moving party to ensure that the action requested has been addressed by the Clerk or the Court.

3. 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.

A. 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 an unrepresented party who has appeared in Court or who has submitted a signed pleading to the Court. Any counsel of record is required to keep the court updated with a valid mailing address and other contact information 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 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/her appearance by formal Notice of Appearance, *Praecipe*, or other appropriate filing consistent with the VSCR.
- c. Substitution of Counsel: When an attorney/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/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.

B. Emergency Matters

- a. Any filing that seeks immediate court action or variance from the procedures set forth herein should be appropriately labeled and identified as an “Emergency” in writing. Any filing labeled or identified as an Emergency will be received by the Clerk but not docketed and brought forthwith to the attention of an available judge. 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/authorization of the reviewing judge. Any certification requirements pursuant to VSCR 1:12 continue to apply, including notice to the Commonwealth, 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,” including 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.

C. Agreed Orders: The Court encourages all parties to resolve matters or issues outside of court when possible. Even when a matter is scheduled for trial, parties are free to continue negotiations 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. 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.
- c. A proposed consent order must be properly endorsed by all parties.
- d. 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 may be declined, denied, or may be docketed by the Court for hearing, in the Court's discretion.

D. Pre-trial Motions, Generally

- a. Unless exempted by statute, a copy of any motion filed with the Court are subject to VSCR 1:12 and must be provided to the opposing party/counsel at the time of filing.
- b. Notice time requirements for motions are specified in other sections of these Local Rules by subject matter. Nonetheless, the 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. *For example*, sending notice of a "48 hour" motion two days before the hearing date solely by U.S. mail does not satisfy the notice requirements specified herein; nor does sending a "seven-day" motion solely by U.S. mail on the seventh day before the requested/scheduled date.
- c. Any electronic notice between the parties is governed by the VSCR.
- d. Pre-trial motions will not be docketed unless specifically requested by the moving party with proper notice given to the opposing party.

E. Trials: Trial docket time is limited and in high demand. The Court has the responsibility to 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. If serious illness is cited as a justification for a continuance request, it must be verified in a writing from a medical authority or professional.

- 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 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.

F. Motions to Reconsider

- a. Any party submitting a request for a reconsideration hearing must submit a written motion stating the reasons for his/her request for a hearing with copy to the opposing party. The written motion will be brought to the attention of the Court for consideration. If the Court determines that the written motion provides insufficient cause to support scheduling of a hearing, then the motion will be denied summarily. If the Court determines that sufficient cause exists to schedule 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, processes 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.

G. Appeals: Appeals from the General District Court to the Circuit Court shall be noted in person in the Fauquier County General District Court Clerk's Office within 10 calendar days of the final order. Attorneys of record may file the Notice of Appeal electronically but *must* confirm receipt with the Clerk's Office *before* the expiration of the deadline.

4. Language Services

Language assistance services, in the form of verbal language interpreters, are available to litigants for scheduled court hearings, with advance notice. Parties and counsel are advised that although Spanish language interpreters are usually available in the courthouse on a daily basis, they serve all the courts of this jurisdiction, and may have conflicting obligations at a given docket time if advance notice is not provided. Interpreters for languages other than Spanish are not available without advance notice. 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 no less than 10 days prior to a hearing. A party may not use nor provide their own 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.

5. 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. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services, and telecommunications. Upon request, the Office of the Executive Secretary assists with ADA accommodations for public programs and services of Magistrates, District Court Clerks and Judges, Circuit Court and Appellate Court Judges and Justices, and the Clerks of the Supreme Court of Virginia and the Court of Appeals of Virginia. Circuit Court Clerks, as local constitutional officers are responsible for ADA accommodations in their offices.

Contact Information – ADA Coordinator: Dr. Renee Fleming Mills
Office of the Executive Secretary
100 N. 9th Street
Richmond, Virginia 23219
Phone: (804) 786-6455
Fax: (804) 786-0109
Email: ADACoordinator@vacourts.gov

Services for people with sensory impairments: The Virginia judicial system works in coordination with the Virginia Department for the Blind and Vision Impaired to grant accommodations to court users with visual impairments upon request. This collaboration provides the most effective means for their full participation in all court services. The Court will procure interpreters for the deaf through the Virginia Department for the Deaf and Hard of Hearing (VDDHH) in criminal and civil cases.

Other information pertaining to ADA accommodations may be found at www.vacourts.gov/courts/ada/home.html.

6. Courtroom Management

- A. While presiding, the judge has the full authority to direct the management and control the courtroom, in that judge's discretion.

- B. 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/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.
- C. No person, except as specifically authorized by statute, 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.
- D. 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 must obtain permission from the Court when the case is called. The Court provides lockboxes on both levels of the courthouse for securing electronic devices.
- E. The conference room directly outside of the courtroom of this Court is subject to the authority, control and direction of the Court, the Clerk and the presiding judge. 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.
- F. Consuming food or chewing gum in the courtroom is prohibited.

7. Creating/Maintaining a Record

- A. Either party may retain a court reporter to record the proceedings without advance notice to the Court.
- B. Either party may request, at the time of the hearing, to record the hearing on a personal recording device. Such request will generally be granted absent good cause otherwise.

8. Inclement Weather Policy

- A. The three Fauquier County courthouses are in three buildings, each subject to their own inclement weather policies. The decision to close the General District Court and/or the GDC Clerk’s Office will be made by the General District Court Judge as early as possible. In the event of a closure due to inclement weather, the Court will notify the Sheriff’s Department and the local news channels. The Court’s voicemail and Facebook page will also be updated to announce a closure.

- B. 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 written notice to issue to all parties / counsel of record.
 - a. Bond motions, civil protective order hearing(s), civil mental commitment hearing(s), or other matters with statutorily mandated deadlines, will automatically carry over to the same scheduled time on the next day that the Court is open, unless otherwise specified by the Court.

9. Clerk's Office/Ex-Parte Communications

- A. The Clerk's Office is available to serve attorneys and all members of the public Mondays through Fridays from 8:00 a.m. until 4:00 p.m.
- B. The clerks are *not permitted* to give legal advice and thus cannot assist lawyers and/or the public in determining *what* needs to be filed.
- C. The clerks will accept any pleading that is properly filed following the rules and procedures set forth by VSCR and the Local Rules. Conversely, the clerks may reject any pleading that does not comport with the rules and procedures set forth herein.
- D. *Ex-parte* communications: The Court shall not initiate, permit, or consider *ex-parte* communications made to the judge or the through the Clerk's Office, outside the presence of the parties or their lawyers, concerning a pending or impending matter, except as when required for scheduling, administrative, or emergency purposes when substantive matters are not addressed and so long as no party gains a procedural, substantive, or tactical advantage as a result of the *ex-parte* communication and the Court promptly provides notice to all parties and gives the parties an opportunity to respond.

SECTION II: CIVIL PRACTICE

1. Civil Dockets

- A. Small claims are scheduled for the first, second, and fourth Wednesdays of each month at 8:30 a.m.
- B. Civil motions and first returns for all civil claims and post judgement matters (interrogatories, and garnishments, attachments, rehearing requests, etc) are scheduled for the first, second, and fourth Wednesdays of each month at 9:00 a.m.
- C. Contested matters are scheduled by the court on Thursdays and Fridays at 1:00 p.m.
- D. The Court organizes the docket by subject matter: Warrants In Debt and Interrogatories will be called first, then Garnishments, then Unlawful

Detainers/Evictions. Within each subject matter, the Court will take up the cases involving attorneys first in order of number of cases on the docket so that the attorney who only has one case on the docket does not wait behind the attorney who has multiple cases.

2. Civil Return (Status) Dockets

- A. If only one party/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/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.
- B. At a first civil return, the Court will generally grant either party, upon request, one 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. For any case set for trial, the Court will require the plaintiff to file a Bill of Particulars and will order the defendant to file an Answer and Grounds of Defense. If the plaintiff fails to file the Bill of Particulars, the matter may be dismissed without prejudice. If the defendant fails to file an Answer/Grounds of Defense, the plaintiff may be awarded a Default Judgment.
- 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.

3. The Small Claims Docket:

- A. Small claims matters will be called promptly at 8:30 a.m. and the parties will be referred to mediation. A mediator from Piedmont Dispute Resolution Center will be present onsite at the courthouse to mediate the matter. Cases not successfully resolved by mediation will be heard the same day at the conclusion of the civil first return docket or as soon thereafter as the Court can accommodate the hearing.
- B. Counsel wishing to remove a case from the Small Claims Docket should appear at 8:30 a.m. to set the matter on the regular civil trial docket. Counsel should file a *Praecipe* with the Court as soon as possible giving notice to the other party of Counsel's intent to move the small claims matter to the regular General District Court civil docket for trial. The *Praecipe* must include counsel's full name, mailing address, and phone number.

4. Filing Suit and Other Civil Pleadings

- A. Forms available in the Clerk's office: Various standard forms, such as warrants in debt, summons for unlawful detainer, summons for debtor's interrogatories, garnishment forms, affidavits for service on the Secretary of the Commonwealth, the State Corporation Commission, and the Virginia DMV are available in the Clerk's office. Forms are also available online through the General District Court's web site: <http://www.vacourts.gov/forms/district/home.html>.
- B. Signatures, Service Copies, and Proof of Filing: All pleadings must be signed by counsel of record (or the *pro se* plaintiff) and include the addresses of all parties. If pleadings require service, the plaintiff is required to provide the correct number of service copies, together with instructions for forwarding service copies to the appropriate sheriff. A check or checks sufficient to pay all filing and service fees will need to be provided at the same time. Generally, for filings requiring service, it is necessary to provide the original plus one copy for each service.
- C. Filing and Service Fees: The Court charges a \$50.00 filing fee + \$12.00 for Service by Sheriff per Defendant. The Clerk's Office will accept personal checks from *pro se* litigants, cash, money orders, or checks drawn on an attorney's account. The Clerk's Office can accept credit and or debit cards; however, there is a 4% convenience fee for each bank card transaction. Checks for all filing fees should be made payable to the *Clerk of the General District Court*. Filing fees are separate and distinct from applicable service fees to the Sheriff, but the Sheriff's service fee may be included in the check made payable to the Clerk of the General District Court. Please verify that all checks are signed. PLEASE NOTE ON FRONT OF FILING IF USING PRIVATE PROCESS.
- D. Notice: Each defendant is entitled to proper notice. The plaintiff is required to abide by all laws with respect to service of process and all other notice requirements set forth by law. Each type of lawsuit may have different notice requirements.
- E. Service: Service requirements are statutorily mandated and the plaintiff must ensure that all service requirements applicable to any particular case have been met.
- a. Sheriff's Office: \$12.00 fee per defendant. For in-county service, the original process to be served by the Fauquier County Sheriff's Office will be forwarded to the Sheriff's Office within three to five business days following the filing of the pleadings. For out-of-county service, the Clerk's Office processes any pleadings that must be served by the Sheriff of another county or city within three to five business days and forwards the pleadings to the Sheriff of the indicated jurisdiction. Counsel, or any *pro se* party, is responsible for identifying on the pleading the jurisdiction in which service is to be performed. Counsel, or any *pro se* party, is responsible for filing such pleadings sufficiently in advance for service to be timely effectuated.

- b. Private Process: Arranged and paid for with third party vendor instead of using the Sheriff's office. When filing pleadings to be served by private process, counsel, or any *pro se* party, should advise the Clerk's Office if private process service is desired. The Clerk's Office will notify counsel when the process is ready for pick-up.
- c. Secretary of the Commonwealth: \$28 fee per defendant payable to the Secretary of the Commonwealth. Any defendant who does not live in the Commonwealth of Virginia can be served through the Secretary of the Commonwealth. Two affidavits for service of process must be provided (DC-410) along with a postage prepaid envelope addressed to the defendant and a certified mailing card.
- d. DMV: \$28 fee per defendant made payable to the DMV. The Affidavit of Service of Process and postage prepaid envelope addressed to the Defendant are required.
- e. State Corporation Commission: \$30 fee payable to the State Corporation Commission. The Affidavit of Service of Process and postage prepaid envelope addressed to the Defendant are required.
- f. Service by publication is governed by statute. Fees are payable directly to the newspaper. Proof of service via publication shall be filed with the clerk prior to the first return.
- g. ****When a defendant lives in NORFOLK or VIRGINIA BEACH, the Court requires a separate check for \$12.00 payable to the High Constable.****
- h. When the defendant is a corporation, the plaintiff is required to provide the Court with the name and address of the registered agent for the corporation. If there is no registered agent, the plaintiff must provide the Court with the name and address of an officer of the corporation to be served. Plaintiff may not use an employee's name for service on a corporation. To locate the registered agent for a corporation, Plaintiff may call the State Corporation Commission at (804) 371-9967 or visit the SCC website at : www.scc.virginia.gov.
- i. Checking Service: The status of service returns can be determined by checking the files in the Clerk's Office during regular business hours or verifying online at www.vacourts.gov. The Court encourages the plaintiff to review the files in advance of the first return to (1) know the status of service of process of each case and (2) be prepared to request an action that is consistent with the service status.
- j. Alias summons: If service is not effectuated properly before the first return, the Court may allow the matter to be continued so that the plaintiff can effectuate "alias service," a process by which the pleadings are resent to the

Sheriff's Office for service. Any request for the issuance of an alias summons, must be accompanied by the Sheriff's fee, as well as the appropriate number of copies of the pleading to be served.

F. First Return Date: Plaintiffs who file in-person will be provided with a first return court date by a clerk. Plaintiffs filing multiple cases at once will be notified of the first return date within three to five business days of filing. Plaintiffs who mail their initial pleadings must first obtain an available court date from the Clerk's Office. **Plaintiffs are discouraged from serving Defendants with first return dates that have not been confirmed by the Court.**

G. Purchased Debt Cases:

- a. The defendant should be able to tell from the style of the case, the nature of the account on which he/she has been sued. While it is not necessary to provide the entire chain of title to the account, the style of the case must contain the names of **both the present creditor and the original creditor**. If the issue of ownership of the account is raised in the course of the proceeding, by pleading, or otherwise, the plaintiff must be prepared to prove its chain of title, and to present, if necessary, all of the assignments which resulted in the ownership of the account, by the ultimate plaintiff in the case.
- b. The plaintiff or plaintiff's counsel shall, on the return date, be in possession of sufficient documentation of the claim, to enable the defendant to recognize the nature of the obligation, and the manner in which the balance claimed was determined. At a minimum, the plaintiff should be prepared to present an invoice from the original creditor, on the creditor's billing form, or some other documentation by any creditor in the chain showing actual usage, in the case of a credit card account. If the defendant claims not to be the correct debtor, or not to have any account or dealings with the original creditor, the plaintiff must be able to produce documentation showing that the defendant signed a contract, used the credit card in question, or in some other manner was the party that contracted with the original credit grantor.
- c. Pleadings must provide the basis for the claim (contract, note, contract, card usage, etc), a breakdown of debits and credits, showing how the balance was determined, and appropriate documentation to support the claim. If charges from the original creditor include interest at a rate in excess of the judgment rate, fees, such as over limit charges, or other charges that do not reflect purchase or cash advances, the creditor must document the rules and regulations to which the debtor agreed to be bound, either by written agreement, or by card or account usage. If documentation is not sufficient,

judgment will not be granted, even if the defendant fails to answer to the Bill of Particulars.

H. Self-Help: Resources for self-represented litigants can be found at <https://selfhelp.vacourts.gov>

5. Default Judgment Procedures

In order to obtain Default Judgment at the civil return docket, the Plaintiff must prefile all supporting documents. **The Court will not review documents in support of default judgment from the bench.** Matters in which documents have not been filed in advance of the first return date will be reset for entry of default judgment to allow the Court time to review the additional documents.

A. Unlawful Detainers: The Court requires the landlord to provide *at least* the following documents at the time of filing in order to obtain default judgment:

- a. The Statement of Rights and Responsibilities provided to the tenant;
- b. The original lease (or other applicable contract) with late charge and attorney fee provisions highlighted;
- c. Any and all notices (pay/cure/quit/terminate) provided to the tenant prior to filing;
- d. Any necessary Reservation of Rights Notice;
- e. A statement of account; and
- f. Evidence of unliquidated damages (damages that are payable for a breach of contract, the exact amount which has not been pre-agreed to in the contract).

B. Warrants in Debt: Court requires the plaintiff to produce *at least* as follows:

- a. The contract between the parties, if applicable, with relevant portions highlighted;
- b. An accounting history and/or evidence of card usage if the suit is for unpaid debt;
- c. The attorney's fees affidavit setting forth the reasonableness of the fees and the authority for the award; and
- d. Any and all affidavits evidencing transfer of debt ownership, if applicable.

6. Civil Motions and 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 days advance written notice to both the court and the opposing party, unless otherwise stated herein or by statute. Civil motions of 10 minutes or less may be docketed for hearing on any Wednesday motions docket at 9:00a.m. Civil motions of more than 10 minutes shall be docketed for scheduling on any Wednesday motions docket at 9:00 a.m. 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 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 are strongly discouraged, absent good cause shown. See also Local Rule (A)(4) regarding proposed agreed orders.

7. Continuance Guidelines for Civil Matters

In accordance with §16.1-59 of the 1950 Code of Virginia, as amended, and Rule 7A:14 of the Rules of the Supreme Court of Virginia and in keeping with the spirit of the recommendations of the Judicial Council of Virginia as to the “Adoption and Implementation of Case Processing Time Standards,” the General District Court of Fauquier County adheres to the following guidelines:

A. Civil Matters on the Return/Status Docket (excluding Unlawful Detainers)

- a. Uncontested Cases: If the Warrant in Debt is uncontested on the first return date, the Court may enter judgment on the affidavit if the damages are liquidated or upon the taking of *ex-parte* proof if unliquidated damages have been claimed *and* all documents listed in Section II, §5 above have been filed. Continuances will only be allowed for good cause shown and should be scheduled within 60 days from the original return date.
- b. Contested Cases: If the defendant appears on the first return date and contests the case, the case will be set for trial. Continuances of the first return when Defendant is present will not be granted absent extraordinary circumstances.

B. Civil Matters on the Trial Docket (excluding Unlawful Detainers)

a. First Agreed Continuance:

- i. One or both attorneys or parties may appear in court to make the motion. If the motion is granted, a new date will be scheduled with leave of Court;
- ii. Either attorney or party may file a written *Praecipe* in the Clerk's Office. The *Praecipe* must be filed in the Clerk's Office no later than 4:00 p.m. on the Monday prior to the scheduled trial date. The *Praecipe* shall state the new court date which date shall have been obtained from the clerk and the *Praecipe* shall state that the continuance is agreed among all parties. The *Praecipe* shall have been mailed to all parties; or
- iii. The parties may submit an Agreed Order to the Court no later than 4:00 p.m. on the Monday prior to the scheduled trial date. The Order must state the new trial date which has been obtained from the clerk.

b. Second or Subsequent Continuances: Second or subsequent continuances are highly discouraged. Motions must be docketed for hearing and requests will only be granted for good cause shown.

c. Contested Motions to Continue: In the event one party objects to continuing a matter, the motion must be docketed for hearing.

C. Unlawful Detainers/Evictions

If a defendant appears on the first return date and disputes the plaintiff's claim, the court will set the matter for trial. Unlawful Detainer actions have priority on the docket by statute, so the following guidelines are generally adhered to:

- a. Absent consent, trials will be set within 30 days of the first return.
- b. Continuances of cases under the Landlord-Tenant Act, where the issue is non-payment of rent, may be conditioned on the defendant's posting of a bond.
- c. Information on Tenant's Assertions may be obtained from the Clerk's Office or the website for the Supreme Court of Virginia.

8. Incidents of Trial

A. Block Scheduling: All civil matters set for trial are scheduled for a Thursday or a Friday at 1:00 p.m. The Court has three one-hour "slots" available for each afternoon. At the beginning of the civil trial docket, the court will ask for time estimates from the parties. The shortest matters will be heard first.

B. Default Time Slot: Litigants are provided one slot by default which limits the trial to a time estimate of 30 minutes or less. If litigants estimate the trial to take more

than one hour, they must specifically request additional slots as needed (one slot per 30 minutes).

C. Subpoenas:

- a. Self-represented litigants must fill out a Request for Witness Subpoena (form DC-325) or the Subpoena *Duces Tecum* and submit to the Clerk's Office, fully completed with the witness' name and physical address (no P.O. Box) in order for the Clerk to issue the subpoena for service. Requests for subpoenas that fail to provide complete information will be rejected.
- b. The forms required are available in the Clerk's Office or online at <https://www.vacourts.gov/forms/district/home.html>. For a Subpoena *Duces Tecum*, a specific list of documents being requested must be provided.
- c. Attorney-Issued Subpoenas: Many civil witness and document subpoenas may also be attorney-issued in compliance with the provisions of the Virginia Code and the VSCR. All attorney-issued subpoenas must be prepared by counsel on a form approved by the Virginia Supreme Court (available online and in the Clerk's Office). A copy of the summons and, if the summons is to be served by the Sheriff, payment for all service fees, must be mailed or delivered to the Clerk's Office on the date of issuance by the attorney, together with a certificate of service. Attorney-issued subpoenas to be transmitted by Sheriff's Service must be accompanied by a transmittal sheet containing all pertinent information. Counsel should also consult the Virginia Code and applicable rules for specific information relating to attorney-issued subpoenas.
- d. Timing: When using the Sheriff's Office for service, attorneys are encouraged to file witness subpoenas as far in advance of the hearing date as possible. While the Clerk's Office makes every effort to process requests as expeditiously as possible, as a practical matter, witnesses must be given reasonable notice. This requires advance planning on the part of the requesting party. As a general rule, counsel requesting Sheriff's service on witness subpoenas must allow at least **14 days** for court processing and service within the jurisdiction, in addition to the time necessary to provide the recipient with proper and timely notice. Similarly, document subpoenas should be filed at least **21 days** in advance to allow reasonable time for processing and service, as well as a sufficient time period for compliance in accordance with the Virginia Rules.
- e. Please take into consideration that the paperwork for subpoenas to be served outside of Fauquier County must be forwarded directly to the appropriate jurisdiction in which the service is to be accomplished. Each party making such a request should be familiar with the procedures of the Sheriff's Department in the foreign jurisdiction. As such, service outside of

Fauquier County almost certainly takes more time than service within the County. Counsel should plan for at least **30 days**.

- f. **Fees:** The Sheriff's fee for each service should be included with the filing; otherwise it will not be delivered to the Sheriff for service. If the subpoena is to be served by private process, please note this with the subpoena request at the time it is filed.
- D. **Court Reporters:** The Court does not provide a court reporter for any civil matter. The litigant who chooses to hire a court reporter must bear the cost thereof absent an agreement to the contrary.
- E. **Interpreters:** Litigants must make arrangements for any interpreters or translators needed. For trials, a court certified interpreter will be required. The Clerk will make arrangements for a court certified interpreter if a request is made at least ten days before trial.
- F. **Equipment:** The Courtroom is equipped with an easel for the display of poster boards. A television monitor is available with advance request. Attorneys may be granted advance access to the courtroom to set up and/or test their equipment. Litigants must provide any other equipment and/or technology needed to present their evidence. There is no wifi in the General District Court building.
- G. **Timeliness:** Parties are expected to be in the courtroom and ready to proceed at the designated time. Litigants are expected to conclude the presentation of the evidence within the time estimate provided (30 minutes is the default unless additional time is requested in advance).

9. Post-Judgment Proceedings

Post-judgment matters shall include garnishments, interrogatories, attachments, rehearing requests, as well as any other issue requiring court review following the entry of judgment.

- A. **Debtor's Interrogatories:** A judgment creditor's right to conduct debtor's interrogatories is governed by the Virginia Code and parties are advised to review the statute to determine authority to proceed.

Returns on debtor's interrogatories are called at the 9:00 a.m. Wednesday return docket. After the case is called, the Court will instruct the debtor to wait for the judgment creditor or his/her counsel in the hallway. Interrogatories are conducted in the General District Court hallway unless the circumstances require the parties to proceed in open court. The Court will swear the debtor on counsel's request.

Counsel is expected to know the status of service when the debtor's interrogatory summons is called in court so that counsel may request a disposition that is within the power of the Court to grant. In the event that a defendant who has been served with a summons to answer interrogatories fails to appear, the Court, upon request,

will grant the plaintiff one continuance for the issuance of a “Show Cause Summons” or “Capias” against the defendant. The plaintiff must prepare the Show Cause Summons or Capias and file it with sufficient time to allow for processing and service before the new court date. If process is requested by plaintiff, plaintiff shall bear costs of service. If the plaintiff fails to issue the Show Cause Summons or Capias in time to allow for processing and service before the new court date and/or the defendant fails to appear on that date, the Court, upon request, will grant the plaintiff *ONE (1) CONTINUANCE ONLY* for an Alias Show Cause Summons or Capias.

The Clerk’s office strongly recommends that plaintiffs allow six to eight weeks between the filing date of a Show Cause Summons or Capias and the return date to allow sufficient time for the processing and service of the pleading.

- B. Garnishments: A judgment creditor’s right to conduct wage, bank, and any other garnishment action is governed by the Virginia Code. Counsel and *pro se* parties, are urged to review the applicable Virginia Code to determine the authority to proceed with a garnishment. Returns on garnishments are called after warrants in debt and plaintiff must wait until the end of the docket to retrieve any payments received.

Counsel is expected to know status of service when the garnishment return is called in Court so that counsel requests a disposition that it is within the power of the Court to grant. In the event that the garnishee is served but fails to file an Answer, the Court, upon request, will grant the plaintiff a continuance for good cause to obtain an Answer. If the garnishee fails to file an Answer by the continuance date, the plaintiff must either proceed with a Show Cause Summons against the garnishee or dismiss the garnishment. Prior to obtaining a judgment against the garnishee for failing to file an Answer, the plaintiff must provide *ex-parte* evidence of the garnishee’s obligation to the judgment debtor, as required by statute.

- C. Abstracts of Judgment: Counsel should allow 10 days after the entry of judgment before filing a written request for an Abstract of Judgment. The written request must be accompanied by a self-addressed, stamped envelope for the transmission of the Abstract to counsel. Please be advised that the successful plaintiff or counter-plaintiff is responsible for docketing any General District Court judgment among the records of the Circuit Court of Fauquier County or any other jurisdiction. Judgments entered in the General District Court are not automatically docketed in the Circuit Court or elsewhere.
- D. Release of Judgment: The Code requires plaintiffs to release a judgment in writing. It is not enough to advise the Court verbally that the judgment is paid. It must be marked released/satisfied within 30 days of payment. A *Praecipe* or form DC-458 available online at www.vacourts.gov, will suffice.

10. Protective Orders

- A. Preliminary Protective Orders: Applications for Preliminary Protective Orders (PPO) will not be accepted by the clerk's office unless the application is accompanied by Plaintiff's sworn affidavit in support of the request for protection. If an attorney notes an appearance, the attorney must file a *Praecipe* including a time estimate for the hearing. Applications for a preliminary protective order will be reviewed in chambers. Upon review, the Court may (1) grant a preliminary protective order and set the matter for hearing, (2) deny a preliminary protective order but set the matter for hearing, or (3) deny the petition outright.
- B. Final Protective Orders: Final protective order hearings take precedence on the docket and must be heard within 14 days of issuance of any PPO. Protective order hearings will not be continued, absent consent, unless requested by the respondent.

All persons subject to a final protective order are required to surrender their firearms for the duration of the Protective Order. A certification indicating that the respondent/subject of a protective order has complied with the law requiring surrender shall be filed with the Court within 48 hours of issuance of the Protective Order.

- C. Motion to Amend or Dissolve Protective Order: Motions to amend/dissolve protective orders must be filed in writing at the Clerk's Office and docketed for a hearing. The moving party must give proper notice to the opposing party and appear before the court to request the amendment or dissolution. The Court will not amend or dissolve a protective order by agreed order.

11. Requests for Attorney's Fees

Evidence in support of a request for attorney's fees in a civil matter must be presented by 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. At trial, the affidavit and any other relevant evidence of attorney's fees must be presented as part of the case in chief. As part of default or summary judgment, the affidavit and any other related evidence of attorney's fees must be presented at the time that judgment is requested. **Attorneys appearing as *pro se* litigants will not be permitted recover the value of their own time in attorney's fees unless specifically contracted for.**

12. 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 via Webex no less than two business days prior to the applicable court appearance. The form is available at the clerk's office and attached hereto as an appendix. Such request is considered a motion, subject to all applicable VSCR. Granting any such request is in the Court's sole discretion.

In accordance with Virginia Code §17.1-513.2, in any civil proceeding in which a party or a witness is incarcerated, the Court may conduct any hearing by phone or video to provide for the appearance of any parties and witnesses.

13. Legal Aid

Legal Aid Works (formerly Rappahannock Legal Services, Inc.) is a non-profit corporation that provides free, high-quality, civil legal assistance to low-income individuals and families. There are offices located in Fredericksburg, Tappahannock, and Culpeper to better serve area residents. The Culpeper office serves residents of Culpeper, Fauquier, Madison, Orange, and Rappahannock counties.

Legal Aid Works Culpeper Office
Managing Attorney: Tamara Moore
1200 Sunset Lane, Suite 2122
Culpeper, Virginia 22701
Phone: (540) 825-3131
Fax: (540) 825-3802
Email: LAWculp@legalaidworks.org

Low-income, unrepresented persons seeking legal advice should contact the local hotline program: Legal Services of Northern Virginia (LSNV) at (703) 778-6800 (choose Option #1) or (866) 534-5243 (toll free) or apply online at www.lsnv.org (click on "Intake Application"). Applications are available in Spanish as well.

14. Mediation

The Piedmont Dispute Resolution Center, Inc. (PDRC) is the area's only non-profit dispute resolution center. PDRC offers mediation services by professional mediators certified by the Virginia Supreme Court.

A PDRC mediator will be present in court for the civil return docket on Wednesdays beginning at 8:30 a.m. Parties may choose to avail themselves of the mediator while present in court or may seek to continue a matter to give the parties an opportunity to attend mediation.

Mediation is also available at any time to litigants who wish to avail themselves of the service:

Piedmont Dispute Resolution Center
Director: Sylvia McDermott
98 Alexandria Pike, Suite 53
Warrenton, Virginia 20186
Telephone: (540) 347-6650
Fax: (540) 347-4689
Web: [www.piedmont disputeresolution.org](http://www.piedmontdisputeresolution.org)

SECTION III: CRIMINAL & TRAFFIC PRACTICE

1. Criminal and Traffic Dockets

- A. The Court's daily traffic/criminal docket times are as follows, unless specially set by the court: 9:00 a.m., 10:00 a.m. (as designated), and 1:00 p.m.:
 - a. Fauquier Sheriff's Department: Mondays at 9:00 a.m. and 1:00 p.m.; first and third Fridays at 9:00.
 - b. Town of Remington traffic cases: fourth Friday at 9:00 a.m.; criminal cases: third Wednesday at 9:00 a.m. and 1:00 p.m.
 - c. Town of Warrenton traffic: second and fourth Fridays at 9:00; criminal: third Wednesday 9:00 a.m. and 1:00 p.m.
 - d. Virginia State Police traffic and criminal: Thursdays at 9:00 a.m.
 - e. Court Services and VASAP Show Cause hearings: fourth Thursday at 9:00 a.m.
 - f. Citizen complaints: third Wednesday at 1:00 p.m.
 - g. DUI blood docket: fourth Tuesday at 1:00 p.m.
- B. Remote hearings with incarcerated persons (bonds, arraignments, motions, etc) are heard Mondays, Wednesdays, Thursdays, and Fridays at 11:30 a.m.
- C. Walk-in arraignments are heard Mondays, Wednesdays, Thursdays, and Fridays at 11:30 a.m. after video hearings.
- D. Preliminary hearings in criminal felony matters are heard on the first, second, and fourth Wednesday at 1:00 p.m.

2. Prosecution of Criminal Cases

- A. The Office of the Commonwealth Attorney handles all misdemeanor and felony cases brought by the Fauquier County Sheriff's Office and the Virginia State Troopers, all felonies brought by the Warrenton and Remington Police Departments, and select town misdemeanor matters.

- a. Office of the Fauquier County Commonwealth's Attorney, 29 Ashby Street, Warrenton, Virginia 20186; (540) 422-8120; (540) 422-8121 (fax); email: commonwealth.attorney@fauquiercounty.gov
 - b. The Commonwealth Attorney's Office is not required to prosecute citizen warrants. Any citizen complainant should contact the Office of the Commonwealth – well in advance of the trial date – to determine whether or not the Commonwealth will be participating in the prosecution of the matter.
- B.** All traffic matters and certain ancillary misdemeanors charges brought by the Town of Warrenton Police are prosecuted by D. Bradley Marshall, Esq., 9200 Church Street, Suite 203, Manassas, Virginia 20110; tel.: (703) 369-4738; fax: (703) 369-3653; email: bmarshall@vfnlaw.com .
- C.** All traffic matters and certain ancillary misdemeanors charges brought by the Remington Police Department are prosecuted by Attorney T. Huntley Thorpe, Gulick, Carson & Thorpe, P.C., 70 Main Street, Warrenton, Virginia 20186; phone: (540) 347-3022; (540) 347-9711 (fax).

3. Criminal & Traffic Motions; Docketing of Pre/Post-Trial Matters

- A. Arraignments:** All felony cases and class one and class two misdemeanor cases require the Defendant's presence so that he/she can be advised of the charges and his/her rights. All arraignments are conducted at 11:30 a.m. every day of the week except for Tuesdays. The Court will arraign all persons who are incarcerated via video-conferencing at the beginning of the docket. All persons who have been released on bond will be arraigned in person following the conclusion of the video hearings.
- a. At arraignment, the Defendant is notified of the charges that have been levied and is given the opportunity to decide how to proceed about representation. In any criminal case where jail time (active or suspended) is a possibility, the accused may request the Court to appoint counsel if the accused cannot afford one.
 - b. If the accused requests court-appointed counsel, the accused will be required to provide a financial statement for the Court to determine eligibility.
 - c. The matter is set for trial based on the law enforcement officer's assigned court dates and the Court's set docket schedule.
 - d. The Court strives to provide a meaningful first appearance to all persons. Therefore, the Court will consider argument on both sides in favor of/opposition to pre-trial release.

- e. In cases where bond is denied at arraignment, any court-appointed counsel is expected to make contact with the accused within 48 hours of appointment and file a bond motion if appropriate.
- B. Appointment of Counsel to Indigent Defendants: The United States Constitution and the Constitution of the Commonwealth of Virginia guarantees the right to an attorney for any person charged with a crime that carries a potential jail sentence. If an accused cannot afford an attorney, the Court will appoint an attorney. If the accused qualifies for court-appointed counsel based on his/her financial circumstances, the Court will generally appoint the Office of the Public Defender.

Office of the Public Defender - Warrenton Office

Public Defender: Ryan Ruzic, Esq.

16 Horner Street

Warrenton, Virginia 20186

Telephone: (540) 347-6390

Fax: (540) 347-6391

Web: www.vadefenders.org

In the event of a conflict, the Court will appoint an attorney certified by the Virginia Indigent Defense Commission. Attorneys who meet the state guidelines to accept court appointment to indigent defendants must abide by the *Standards of Practice of Indigent Defense Counsel* found at: <http://www.vadefenders.org/wp-content/uploads/2018/04/SOP-4-10-18.pdf>.

In addition to the VIDC's requirements for client contact, appointed attorneys **must** speak — in person or by phone — with an incarcerated defendant within 48 hours of the date of appointment. Attorneys may schedule telephone meetings with inmates with advance notice to the Fauquier County ADC. The jail will provide inmates a private location to discuss matters with their attorney on a non-recorded line.

Failure to abide by minimum standards of competent assistance will result in a written letter from the Court warning of the perceived deficiency and requiring remedial measures to correct the deficiency. Second or subsequent failures to abide by minimum standards of competency will result in suspension from the court-appointed attorney list. Failure to abide by minimum standards of competent assistance include but are not limited to: failure to communicate with clients in a timely fashion; habitual failure to appear in court; habitual failure to timely notify the court of the status of a case; failure to secure court permission to substitute counsel; or failure to secure court permission to excuse a client's appearance in court.

Court-appointed attorneys may have other attorneys from the same firm appear for pre-trial motions. Court-appointed counsel may not substitute any other attorney for trial without prior leave of court. Substitute counsel from the same firm may only substitute in court-appointed cases if the new attorney is also on the court-appointed list.

Attorneys seeking to volunteer to accept court-appointed cases in the Fauquier County General District Court must submit their request in writing to the Clerk of Court along with documentation of the completed VIDC certifications, as required. Out-of-town counsel are welcome to volunteer; however, they are governed by the same standards as local counsel and are required to speak with any incarcerated client within 48 hours of appointment.

Timesheets: Any counsel appearing in a criminal or traffic case as court-appointed counsel are encouraged to submit their paper DC-40 Allowance form (i.e., timesheet) at the time the matter is concluded in this Court. Digital timesheets through EVPS or paper forms **must** be submitted to the Clerk's Office within 30 days of conclusion of the matter in order for payment to be approved. Failure to submit an allowance form in a timely matter will result in a denial of court appointed counsel fees.

- C. Waiver of Appearance/Formal Arraignment: Counsel may not unilaterally waive the in-person appearance of the defendant on any jailable offense where the possibility of incarceration has not previously been waived by the Court. The Court will grant properly completed waivers pursuant to Virginia Code §19.2-266.3 upon filing of the Waiver of Appearance DC-344.
- D. Standard Motions: A motion in a criminal or traffic case, or other pre/post-trial requests for court action, may be placed on the docket by a party providing at least two business days advance written notice to both the Court and the opposing party, unless otherwise stated herein or by statute. If counsel believes in good faith that the matter will take more than 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.
- E. Bail/Bond Motions
 - a. The Court strives to provide a meaningful first appearance and thus will consider arguments with respect to the accused's detention status at arraignment. Any such ruling made by the Court at the arraignment is

made without prejudice and shall not preclude a full bond hearing on defendant's motion.

- b. A bail/bond motion may be placed on the docket for next day hearing so long as it is filed with the Court and with a copy to the Commonwealth Attorney **by 3:00 p.m.** on the day prior to the hearing day requested. For inmates incarcerated outside of Fauquier County, the Court strongly encourages counsel to file the bond motion as early as possible to avoid any potential delays in hearing the motion.
 - c. Motions to amend bail/bond conditions should provide notice to the local Pretrial Services agency when the defendant is at liberty and has been placed under the supervision of Pretrial Services.
 - d. In most cases, bail/bond hearings will be conducted with the accused appearing remotely by video/audio link with the detention facility. If counsel of record desires the in-person presence of his/her client, a request for the same must be made via the Clerk no less than 24 hours prior to the bail/bond hearing if the inmate is held at the Fauquier County jail. If the accused is located outside of Fauquier County, at least 48 hours notice is required for transport.
 - e. In a bail/bond hearing, the Court permits the parties to present evidence by proffer. As with any representations made to the Court, the Court expects that counsel has taken appropriate steps as an officer of the court to ensure/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 establish the particular issue.
 - f. The Court's decision with respect to bond may be appealed to the Circuit Court by either party so long as it is properly noted in the Clerk's Office and notice is provided to the Commonwealth. The Court will not "rehear" motions for release for the same defendant unless the defendant's circumstances have materially changed since the last order.
- F. Pretrial Supervision: Adult Court Services provides pretrial services to defendants who have been released on bond pending their trial in a criminal matter. Pretrial supervision is an alternative to incarceration in that the agency assists the court in managing the risk of releasing a defendant, promotes future court appearances, and enhances public safety.
- Many defendants are ordered to be supervised by Adult Court Services while they are at liberty awaiting trial. Each defendant's conditions of release are different. Each defendant will be advised of the conditions of release in writing. In all cases, the Defendant will be required to remain of general good behavior and appear in court for all scheduled proceedings. Other conditions may include: refrain from excessive use of alcohol or marijuana; refrain from consumption of illegal drugs

or controlled substances not prescribed by a doctor; refrain from contact with the complaining witness or alleged victim, reside at a particular address; and any other condition the Court may fashion to ensure the prompt return of the Defendant to court, the Defendant's safety, and the safety of the community.

While Pretrial Services can transfer supervision to counties outside of Fauquier and Rappahannock, Pretrial Services cannot supervise out-of-state defendants. Further, the Pretrial Services program does not provide ankle bracelets for GPS monitoring; however, the program has the capacity to monitor these devices obtained from third party vendors.

Subject to staffing constraints, some defendants charged with crimes involving alcohol abuse may be supervised by Virginia Alcohol Safety Action Program (VASAP). VASAP supervision is an intensive (and expensive) program for allowing for the strict pre-trial monitoring of Defendants charged serious alcohol-related crimes.

Specific requirements:

- Complete VASAP intake (either in-person or online) within two business days of release from incarceration;
- Submit to at least monthly drug and/or alcohol screens;
- Attend in-person meetings at the VASAP office twice per month unless otherwise ordered by the Court;
- Obtain a remote alcohol monitoring device (RAMD) from a third party vendor within two business days of intake with VASAP;
- Return device to vendor at least every two weeks for the data to be retrieved by the vendor and sent to VASAP; and
- Pay all fees required for pre-trial monitoring at the following rates:
 - o \$300 enrollment fee for three months of supervision and \$25 per week for every week thereafter
 - o \$25 per in-house urine drug screen; lab confirmation will be additional. Payment is due upon collection of the sample.
 - o \$50 per month for VASAP to monitor the RAMD.
 - o Pay all fees associated with the rental of the RAMD provided by the third party vendor (Smart Start, Lifesafer, and SCRAM).

G. Pretrial Violations: Any violation of any condition of release will be reported by Adult Court Service/VASAP to the Court for further action. Upon receipt of such notice, the Court will either (1) take no action and order continued monitoring, (2) issue a Rule to Show Cause for Contempt, or (3) issue a bench warrant for contempt. If the court takes action and issues process, the defendant will be served and arraigned. At arraignment, the matter will be (1) set with the underlying

charge or (2) set for a revocation hearing, usually within seven days. For RAMD violations, violation data will immediately be sent to the RAMD vendor by cellular connectivity and that data will be forwarded to VASAP for review and court notification if confirmed. The court will process VASAP violation reports in the same manner as other pretrial violations.

H. Discovery

- a. The Commonwealth Attorney for Fauquier County and both town attorneys have agreed to handle discovery requests by letter directly from the defendant/defendant's attorney to the prosecutor making such informal request. Prosecutors require an email address for responding to discovery requests and will generally provide a link via email for counsel to access case-related documents. Should Defendant seek an answer in a format other than electronic format, Defendant shall work directly with the prosecutors to accommodate.
- b. When either party requests a formal Order of Discovery, such motion shall be filed with the Clerk's office.
- c. 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.
- d. The Motion for Discovery must be in the form specified by this Court and available to all parties and be filed no later than 10 days before the scheduled trial and/or preliminary hearing date.
- e. The Commonwealth must provide the discovery authorized by the Discovery Order by the date indicated on the Order.
- f. 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 and/or providing a suitable device for the electronic transfer of information

- I. 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 minutes, then such motion should be placed on the motions docket for scheduling, and then set specially.
- J. Extradition: Any person arrested on a Warrant of Extradition in Fauquier County will be brought before the Court and advised of his/her rights to contest or waive extradition to the demanding state. The accused is entitled to counsel to assist in making the determination to contest or waive extradition. If the accused contests extradition, a hearing will be set within 30 days out so that a Governor's Warrant can be obtained. If the accused waives extradition, the demanding state must take custody of the accused within the time frame prescribed by the Court, up to a maximum of 30 days.
- K. 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. Remote/video appearances are only permitted in the following and require written consent by both parties:
 - i. Pretrial matters;
 - ii. Entry of a plea of guilty or no contest and the related sentencing of the Defendant charged with a misdemeanor;
 - iii. Entry of a *nolle prosequi*; or
 - iv. Revocation proceedings under §19.2-306.
 - c. Requests for remote hearings must be submitted in writing to the Court using the form provided herein with at minimum two days' advance notice.
 - d. For pleas with a recommended jail sentence, the attorney for Defendant must complete the Delayed Report Order, obtain the defendant's signature, and return the order to the Court prior to the remote hearing.
 - e. 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.

- f. Arraignments and bail/bond hearings may be conducted by remote appearance of the defendant at the direction of the Court.

4. Scheduling of Trial

A. Traffic Infractions/Misdemeanors Involving Accidents

- a. Witnesses are not required to be present for the first hearing date and will only be subpoenaed if the case is contested. A trial date will then be scheduled if the case is contested or if there will be a need for witnesses in order for the court to properly dispose of the case. Any request for continuance of such a case, and any agreed orders for continuance, must specify if the request is to continue the case for first return (no witnesses to be subpoenaed) or for trial (officer to subpoena witnesses).
- b. Defendants with counsel on the first date will have an opportunity to discuss and/or resolve their case with the Commonwealth. If the case is not resolved, then a new date will be set for which witnesses are to be subpoenaed.
- c. Defendants entitled to representation but not represented by counsel on the first date will be advised of their charge(s) and right to counsel and given a new date to return to court with an attorney, thus the first court date will be treated as an arraignment. In order to give counsel an opportunity to resolve the case, witnesses will not be subpoenaed for this second date unless an agreed order has been entered in advance specifying that the matter is for trial. If the case is not resolved, then a new date will be set for which witnesses are to be subpoenaed. This does not apply to felony charges resulting from an accident involving citizen witnesses, or misdemeanor or traffic charges resulting from an accident involving citizen witnesses, where a felony is also charged. In these situations, the witnesses will be subpoenaed for the first hearing. Examples: felony DUI involving accident with citizen witnesses; felony possession of controlled substance, with DUI accident, etc. In these cases, citizen witnesses must be subpoenaed for the preliminary hearing and trial on the first court date.

B. Misdemeanors and Traffic Infractions *Not* Involving Accidents:

- a. Once a matter has been scheduled for trial following the defendant's arraignment, all parties are expected to have subpoenaed the necessary witnesses.
- b. In the event a witness who is properly served fails to appear at trial, the Court will, if requested to do so, issue a Show Cause Rule against the witness and continue the matter to a new court date.

5. Case Processing, Subpoenas, Time Standards, and Continuances

A. Processing Time Standards: In accordance with §16.1-69.35 of the Code of Virginia and Rule 7A:14 of the Rules of the Supreme Court of Virginia and in keeping with the spirit of the recommendations of the Judicial Council of Virginia as to the "Adoption and Implementation of Case Processing Time Standards," the General District Court of Fauquier County will, as much as possible, adhere to the Standards, as set forth below:

- a. Misdemeanor/Infractions: 90% of the Court's misdemeanor and traffic infractions should be adjudicated within 90 days from the date of arrest or citation and 100% within 120 days.
- b. Felonies: Preliminary hearings should be concluded within 90 days of arrest unless there is good cause for further delay.

B. Continuance Guidelines: Necessary continuances will be approved so long as appropriate steps are taken to adequately notify all interested parties in order to minimize inconvenience.

- a. Felony matters: A first continuance request may be accomplished via by Agreed Order. **Any second or subsequent continuance request — for any reason other than a certificate of analysis — must be docketed for court approval upon a showing of good cause.** In any case involving a necessary certificate of analysis, counsel of record may submit an Agreed Order indicating on its face that the certificate of analysis has not yet been received. All Agreed Orders to Continue any felony must include the following certifications:
 - i. By the Commonwealth: A certification that any witnesses subpoenaed by the Commonwealth have been (1) notified that they need not appear on the scheduled day or (2) not notified and counsel shall provide the reason therefore.
 - ii. By Defense counsel:

- o A certification that the defendant has been (1) notified of the continuance and agrees or (2) the defendant has not been notified and counsel shall provide the reason therefore.
 - o A certification that any witnesses subpoenaed by the Defense have been (1) notified that they need not appear on the scheduled day or (2) not notified and counsel shall provide the reason therefore.
- iii. **Any Agreed Order for a continuance that does not include the certification will be rejected.**
- b. Misdemeanor/Traffic Matters with Counsel or “2 Day” Continuances: Prior to the first scheduled court date, a misdemeanor or infraction matter may be continued by counsel of record, by agreed order up until 3:00 p.m. two days before the first court date. Counsel must certify that their respective witnesses have been notified that they are not required to appear in court.
- c. Traffic Matters without Counsel or “5 Day” Continuances: Traffic infractions may be continued by an unrepresented defendant prior to the first scheduled court date up until 5 days before the first return date, through the Clerk’s Office by phone or at the Clerk’s Office window. 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. Continuance requests for all court dates after the first court appearance date must be made in court by docketed motion. Subsequent continuances are discouraged and will only be granted for good cause shown.
 - i. Any request made by a defendant within the 5-day window will be addressed in open court on the scheduled court date. If the matter is rescheduled, the Court will notify the defendant of the new court date.
- d. **The Court requires that any defendant who is incarcerated endorse an agreed continuance order** — defense counsel is responsible for determining whether a defendant is incarcerated, and if so, for obtaining the necessary endorsement.
- e. The parties are encouraged to use the form Agreed Continuance Order created by the Court.
- f. Continuances requested at the time of trial when citizen witnesses are present are discouraged and will only be granted only upon a showing of good cause by the moving party.

- g. Police officers, magistrates, and court personnel are urged to confirm addresses and telephone numbers so as to maximize the ability of parties to communicate with all witnesses and persons involved in the case.
- C. Subpoenas: Subpoena requests must be prepared by counsel or by *pro se* litigants. The Clerk's Office **will** prepare subpoenas **for criminal trials** when the form requesting such a subpoena is correctly completed and filed.
- a. How obtained: A Request for Witness Subpoena may be made on forms available in the Clerk's Office or on the Court's website: www.vacourts.gov. Similarly, the Clerk's Office has forms available for subpoenas *duces tecum*. A specific list of documents being requested must be provided. Any request for subpoena must include a name and a physical address as service cannot be effectuated on a post office box.
 - b. Attorney-Issued: Counsel may issue witness subpoenas without making the request through the clerk's office. If Counsel requests service by the Sheriff's Office, counsel must file the witness subpoena in accordance with the rules set forth in the following paragraph with respect to timing. Counsel shall forthwith file any such subpoena with the Court, regardless of how service is effectuated.
 - c. Timing: Attorneys are encouraged to file witness subpoenas as far in advance of the hearing date as possible. While the Clerk's Office makes every effort to process requests as expeditiously as possible, as a practical matter, witnesses must be given reasonable notice. This requires advance planning on the part of the requesting party.

As a general rule, counsel requesting Sheriff's service of witness subpoenas must file the request for witness subpoenas at least **14 days** in advance of trial to provide time for processing and service, in addition to the time necessary to provide the recipient with proper notice. Similarly, document subpoenas must be filed **21 days** in advance to allow reasonable time for processing and service, as well as a sufficient time period for compliance in accordance with the Virginia Rules.

Please take into consideration that the paperwork for subpoenas to be served outside of Fauquier County must be forwarded to the appropriate jurisdiction and then go through whatever procedures the Sheriff's Department in the foreign jurisdiction employs. As such, service outside of Fauquier County almost certainly takes more time than service within the County. Counsel should plan accordingly and allow at least 30 days.

- d. Fees: There is no fee for filing or serving a criminal witness or document subpoena.

6. Plea and Recommendations; Agreements

- A. If the parties elect to present a proposed plea and recommendation to the Court in any matter, the proposed agreement should be reduced to writing as follows:
 - a. A completed and legible standard Plea and Recommendation form which includes the Defendant's name, the prosecutor's name, the attorney's name (if applicable), the arresting officer's name, the case number(s), charged/amended code section(s), and the applicable VCC code(s) on the amended charges. For criminal charges, all parties, counsel, and any interpreter must review and complete the back side of the form with the appropriate acknowledgements/signatures (the back side of the form is not necessary for traffic infractions);
 - b. For cases involving a referral to Adult Court Services, a deferred finding order, or requests for restricted license, **Counsel for Defendant is expected to prepare** the forms prior to submitting the plea form to the Court; and
 - c. A completed and legible DC-40 allowance form from a court appointed counsel (if applicable).
- B. All plea-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.
- C. The Court strives to handle the docket in the most efficient way possible. As such, pleas will be handled in the order in which they are received. All matters resolved prior to the calling of the docket will be addressed first. If an agreement is reached during the call of the docket, the Court will call the resolved matters as soon as practical.
- D. Bond Agreements: Counsel may prepare and submit to the Court an Agreed Order for bond along with the accompanying Referral to Pretrial Services, if required, in court or through chambers.
- E. Other Agreements: Counsel may always present an Agreed Order to the Court via chambers, including an agreed *nolle prosequi*, or an agreement to advance a matter for entry of a plea with recommendation.

7. Incidents of Trial

A. Preliminary Hearings

- a. Ancillary misdemeanors: Any misdemeanor charges that accompany a felony charge will be certified with the felony or reset for trial if the felony is not certified. 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. Any misdemeanor not certified pursuant to Va. Code § 19.2-190.1, or not otherwise addressed by the Commonwealth, will be rescheduled for any proceedings before this Court on another date and time.
- b. Amendment of felony charge(s): In any felony matter in which the Commonwealth elects to amend or modify the felony charge, the parties shall provide the applicable code section and the VCC code.

B. Driving Under the Influence Cases

- a. Scheduling of cases involving blood test evidence: In a matter charged pursuant to Virginia Code §18.2-266 or a related offense (“DUI”) which involves 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, these matters are handled separately and given their own docket time slot once per month. Any such case that involves a blood draw will not be scheduled for trial on a blood sample evidence docket 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 regular 9:00 a.m. docket. Upon certification by the parties that the matter is ripe for trial, the matter shall be placed on the designated blood sample evidence designated trial date. Any request for a continuance thereafter will be strongly discouraged.
- b. Victim Impact Panel: The Court finds it 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, absent good cause shown.

- C. Delayed Reporting/Weekend Time: The Court will generally grant requests for delayed reporting to the jail when a jail sentence is imposed. The Defendant will

be required to report directly to the Fauquier County Detention Center located at 50 West Lee Street, Warrenton, Virginia 20186 at 8:00 p.m. on the date specified by the Court. If the Defendant fails to report, the Court will issue a bench warrant for the Defendant's arrest and the Defendant may be required to serve the full sentence. The Defendant must not be under the influence of drugs or alcohol at the time of reporting. See Appendix 5, Order for Delayed Report.

The Court will generally not grant requests for weekend time absent extenuating circumstances and a jail sentence of 10 days or less.

D. Petitions for Restricted Driving Privileges

- a. Petitions provided to the Court contemporaneously with a plea requiring license suspension will be reviewed and granted or denied in court. The Court strives to provide same day service upon suspension; however, any request may take up to two business days.
- b. Any petition filed after court requires the driver to provide a valid driver transcript/history from the licensing state's department of motor vehicles, current within seven days, to accompany any request made for restricted driving privileges or a modification of the same. Any restricted driving privilege request made without a proper driver transcript will not be considered.
- c. Any restricted driving privilege request, modification or motion made after the date of conviction/suspension, must also include the following:
 - i. DMV Compliance Summary
 - ii. Letter of good standing from VASAP/ACS (if applicable)
 - iii. Copy of any court order for child visitation/custody (if applicable)
- c. 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.
- d. A restricted driving license or order will be available for pickup within two 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.

- E. Traffic School for Dismissal: For matters involving traffic infractions, and in some other cases involving moving violations, the Court will *consider* deferring a finding of guilt for certain drivers to complete a driver improvement course.

In order to be considered, the driver must not have any prior moving violations on his/her driving record within the past five years *and* may not have completed the driver improvement within the past two years. If referred to traffic school for dismissal the driver must:

- a. Attend a Virginia DMV approved traffic school;
- b. Obtain a certificate of completion from the traffic school;
- c. Submit the *original* certificate to the Court before the deadline; and
- d. Pay court costs.

Instructions for completing the traffic school will be provided in Court along with details for paying court costs.

8. Post-Conviction

- A. Payment of Costs, Fines, Restitution: Any defendant convicted of a traffic infraction or a violation of any criminal law of the Commonwealth or of any political subdivision thereof, who is sentenced to pay a fine, forfeiture, or penalty will have 90 days to pay the fine, forfeiture, or penalty, or costs in full. If the defendant is unable to pay the amount owed in full within the 90-day period, the defendant may enter into a payment plan with the Court; however, a \$10 fee will be assessed by the Court to cover the costs of management of the defendant's account until such account is paid in full. A defendant who enters into an installment or deferred payment shall promptly inform the court of any change of mailing address during the term of the agreement.

If the defendant owes court-ordered restitution, the defendant will be required to pay such restitution in accordance with the timeline contained in the restitution order. If defendant cannot pay within the ordered timeframe, any request for an extension must be docketed for hearing at 11:30 a.m. with proper notice to the Commonwealth Attorney's office.

All monies collected by a defendant shall be first used to satisfy any outstanding restitution order and any collection costs associated with restitution prior to being used to satisfy any other fine, forfeiture, penalty, or cost owed, unless an order for restitution is docketed in the name of the victim or it is ordered that an assignment of the judgment to the victim be docketed.

The Court accepts cash, personal checks, money orders, debit, and credit cards. A 4% convenience fee is assessed for any debit/credit card transactions. Do not send cash by mail.

Any defendant who is unable to pay a fine and/or costs, may apply to the Court to perform community service in lieu of paying fines, penalties, or costs. To apply to perform community service, the defendant must submit a motion to the Court on or within 90 days after the trial date. If approved by the Court, community service must be performed within the time period and at the rate approved in the plan. Credit will be applied at the minimum wage in Virginia which is currently \$11.00/hour. Community service is supervised by a probation officer with Adult Court Services.

- B. Adult Court Services:** The mission of the Office of Adult Court Services is to provide criminal justice services to the local courts and community resulting in enhanced public safety, reduced jail overcrowding, and increased accountability of criminal offenders. These services include but are not limited to probation services, pretrial investigation and supervision services, litter control programs, monitoring the payment of fines, court costs and/or victim restitution, and criminal justice grant administration.

The purpose of local probation is to provide the judicial system with alternative sentences to incarceration, provide appropriate post-sentencing supervision and interventions for people on probation with the goal of reducing the incidence of recidivism, and to allow local involvement and flexibility in responding to crime in the community using the locally designed, state-funded community-based probation services.

Office of Adult Court Services for Fauquier County

Director: Thomas S. Pavelko

Asst. Director: Tiffany Embrey

70 Court Street

Warrenton, Virginia 20186

Phone: (540) 422-8080

Fax: (540) 422-8065

A representative from Adult Court Services (ACS) will usually be present in the courtroom to initiate contact with each person referred to ACS for probation services. It is incumbent upon the probationer to maintain contact with ACS and follow all rules established by the Court and the probation officer in order to remain in compliance. All violations are reported to the Court for further action.

- a. Community Service and the Litter Control Program:** The Litter Control Program was developed by and is maintained by the Office of Adult Court Services. The program utilizes court-ordered community service workers to combat the ongoing problem with litter in the county. The program is beneficial to the citizens in a multitude of ways as it results in a cleaner

county, aims to increase public awareness of the ongoing litter issues, and also provides the opportunity for workers to give back to the community. The Office of Adult Court Services works closely with the Virginia Department of Transportation (VDOT) to identify target areas for litter pick up.

The Court routinely orders community service to be completed and supervised by ACS. In certain Reckless Driving cases where community service is ordered, the Court will require the defendant to complete litter control hours in lieu of other forms of community service.

- b. Violations of Probation are reported to the Court via letter from Adult Court Services with notice to the Commonwealth and the Defendant. As a result of any such notice, the Court will (1) take no action and order continued monitoring, (2) issue a Rule to Show Cause for Contempt, or (3) issue a bench warrant for defendant's arrest. If process is issued and once served, the defendant shall be arraigned and the trial date set for next available the fourth Tuesday at 9:00 a.m.
- C. Virginia Alcohol Safety Action Program (VASAP), District Nine: District Nine VASAP's mission is to improve highway safety by decreasing alcohol and other drug-related crashes and other incidents that cause death, injury, property damage, and human suffering by providing public information and education to our service area and direct services including education, treatment, and monitoring to the offenders. The District Nine VASAP service area includes the counties of Culpeper, Fauquier, Madison, Orange, and Rappahannock. Upon request, Defendants who do not live or work in the District Nine VASAP service area will be transferred to a VASAP near their home.

District Nine VASAP

Director:

1300 Sunset Lane, Suite 3110

Culpeper, Virginia 22701

Telephone: (540) 829-7379

Facsimile: (540) 829-7495

- a. Once referred to the District Nine VASAP by the Court, the defendant must personally verify the referral has been received by VASAP by initiating contact.
- b. The defendant is required to obtain, review, and sign the participation agreement and schedule an intake appointment.
- c. Defendant must ensure that he/she complies with all orders of the Court and any rules of VASAP as established by the participation agreement which specifically includes participation in an initial intake. Failure to

enroll in VASAP or failure to abide by the rules imposed constitute a violation of probation.

d. All violations are reported to the Court for further action.

VASAP is required by law in many drug and alcohol related offenses as condition of probation, as a condition to obtain a restricted driver's license, or as a condition of reinstatement of a drug/alcohol-related suspension of a driver's license.

SECTION IV – LOCAL FORMS AVAILABLE AT THE CLERK'S OFFICE

1. Civil Filing Checklist
2. Agreed Bond Order
3. Agreed Continuance Order
4. Delayed Report Order
5. Webex Request Form
6. Guidelines to Complete Community Service Hours to Satisfy Fines and Costs
7. Agreement to Complete Community Service Hours to Satisfy Fines and Costs
8. Approved List of Community Service Locations