

CHESAPEAKE CIRCUIT COURT



CONTESTED DIVORCE PROCEDURES MANUAL

July 1, 2005

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TABLE OF CONTENTS

	<u>Page</u>
Contested Divorce Procedures: Guidelines	3
Summary Flow Chart of Events.....	4-5
Events and Responsibilities for Scheduling a Contested Divorce Before a Judge.....	6-9
Supreme Court of Virginia’s Web-Site Information for Listing of Parent Education Providers and Judicial Settlement Conference Program	10
APPENDIX I – Forms and Orders.....	11
– <u>Form 1</u> : Chesapeake Divorce Scheduling Order	12-14
– <u>Form 2</u> :	<i>Repealed</i>
– <u>Form 3</u> : Parent Education Seminar Order.....	16-17
– <u>Form 4</u> : Pretrial Conference Brief	18
– <u>Form 5</u> : Final Pretrial Conference Order	19-22
– <u>Form 6</u> : Continuance Order	23-24
– <u>Form 7</u> : Decree of Reference	25
– <u>Form 8</u> : General Chancery Order	26-35
– <u>Form 9</u> : Order of Designation and Referral to Settlement Conference	36-37
– <u>Form 10</u> : Notice of Non-Compliance: Contested Divorce Pretrial Conference	38
– <u>Form 11</u> : Praecipe for Contested Divorce	39
APPENDIX II – List of Worksheets and Forms.....	40

CHESAPEAKE CIRCUIT COURT CONTESTED DIVORCE PROCEDURES

GUIDELINES

Either a Judge or a Commissioner in Chancery may hear contested divorces; in both circumstances the parties must comply with the requirements of the Court as set out in this Contested Divorce Procedures Manual

Judge:

See flowchart on the next page.

Commissioner in Chancery:

To have a contested divorce heard by a Commissioner in Chancery, the parties must submit a **Decree of Reference (Form 7)** to the Clerk's Office endorsed by both parties indicating their agreement that the case be heard by a divorce commissioner or a divorce commissioner may be appointed upon motion of either party or the court for good cause shown, pursuant to Virginia Code § 8.01-607(B). If the divorce is to be heard by a Commissioner in Chancery, refer to the **General Chancery Order (Form 8)** relating to divorce for further information.

Settlement of a Contested Divorce:

When a contested divorce to be heard by a judge settles and becomes uncontested, the parties must proceed under the Chesapeake Circuit Court Uncontested Divorce Procedures Guidelines. Pursuant to Virginia Code § 20-121.02, upon expiration of the statutory time period, a party may move to proceed on a no-fault ground without an amended Complaint or Counterclaim.

SUMMARY FLOW CHART OF EVENTS FOR TRIAL BY JUDGE

File and serve Complaint.



Service or Acceptance of Process filed. Additionally, the time to answer has passed or the Defendant filed an Answer and/or the Defendant filed a waiver. If custody and/or visitation are at issue, Counsel must prepare and submit the Parent Education Seminar Order (Form 3).



Any *pendente lite* motions or defensive motions are disposed of, if necessary. Counsel engages in discovery process.



Counsel calls the Civil Motions Line at (757) 382-3074 to schedule the Pretrial Conference date in accordance with **Rule 4:15** of the Rules of the Supreme Court of Virginia and **Rule 7** of the Rules of the Chesapeake Circuit Court.



At least 7-days prior to the Pretrial Conference date, Counsel prepares and submits the required Chesapeake Divorce Scheduling Order (Form 1).



If custody and/or visitation is at issue, parties attend the educational seminar unless previously ordered or waived.



At least 5-days prior to the Pretrial Conference, counsel shall: (i) complete and file with the Court and opposing counsel all worksheets and forms applicable to the issues in the case; (ii) exchange Exhibit and Witness Lists; (iii) submit Parental Education Seminar certificate of attendance to the Court, if applicable.



Pretrial Conference held. Parties ordered to attend a Judicial Settlement Conference at this time (Form 9), unless waived by the Court.



Counsel schedules and attends Judicial Settlement Conference (Form 9), unless waived by the Court.



Party files Praecipe (Form 11), certifying that parties have attended the Judicial Settlement Conference, to have the matter called at docket call to be set for trial



Trial held.

EVENTS AND RESPONSIBILITIES
Scheduling a Contested Divorce Before a Judge

Preliminary Matters:

- “Counsel” means an attorney or a *pro se* party.
- The required orders and a list of forms and worksheets are in the Appendices to this manual.
- **RULE:** If the parties have been separated for the statutory period of time, or if the divorce is to be granted on the grounds provided for by § 20-91(1) or (3), counsel may schedule a trial on all the issues. If, however, the parties have not been separated for the statutory period of time, counsel may schedule a trial on the issues of child support, custody, and visitation. The issue of child custody will be a final order. After the parties have been separated for the statutory period of time, a trial on the issues of final spousal support and equitable distribution may be scheduled. A trial on the issue of fault may be scheduled at such time as provided by statute.

Note: Prior to trial, the court may enter temporary orders as seems just, providing for the support of the spouse or children. Such *pendente lite* custody, visitation and support hearings are set on the Wednesday civil motions docket. If custody is contested, a custody hearing will be scheduled on the first available trial date to the parties after they have complied with the Parent Education Seminar orders.

EVENT: Filing Complaint in Clerk’s Office

COUNSEL: Files and has the Complaint served.

EVENT: Filing Parent Education Seminar Order (Va. Code § 20-103)

RULE: The parents in a divorce case where a child’s custody, visitation, or support is contested shall attend a parent education seminar on the effects of separation or divorce on children; parenting responsibilities; options for conflict resolution; and financial responsibilities, unless the court grants an exemption from attendance of such program for good cause shown.

A list of “Parent Education Providers” is provided on the Supreme Court’s web site under the “People” section on the main page at <http://www.courts.state.va.us>

Each parent must pay the seminar provider a fee, not to exceed \$50. The fee will be based on the parent’s ability to pay.

The parents shall attend the parent education seminar before any dispute resolution orientation session. Failure to attend may result in the case being removed from the docket.

COUNSEL: Submits the **Parent Education Seminar Order (Form 3)** unless previously entered with the **Chesapeake Divorce Scheduling Order (Form 1)**. Provides proof of attendance to opposing counsel within 21-days of entry of the order. Proof of attendance must be filed with the Court at least 5-days prior to the pretrial conference.

COURT: Reviews and enters order.

CLERK: Transmits copy of order by facsimile to named-provider in order and places fax confirmation in file.

EVENT: Setting the Pretrial Conference Date

RULE: When the cause is matured for trial on its merits, Counsel may set a Pretrial Conference, in accordance with **Rule 4:15** of the Rules of the Supreme Court of Virginia and **Rule 7** of the Rules of the Chesapeake Circuit Court.

COUNSEL: Upon completion of any defensive motions and initial discovery, Counsel or Counsel's representative calls the Court's civil motions line at (757) 382-3074 to set a Pretrial Conference date in accordance with the Court's Civil Motions policy. **Counsel must give notice of the Pretrial Conference date and time in accordance with Rule 4:15 of the Rules of the Supreme Court of Virginia.**

EVENT: Filing Chesapeake Divorce Scheduling Order

RULE: The **Chesapeake Divorce Scheduling Order (Form 1)** must be filed with the clerk of the court in every contested divorce. Failure to file the Order and comply with its terms may result in the case being removed from the trial docket and any other appropriate sanction. The Scheduling Order must be filed at least 7-days before the Pretrial Conference Date. Failure to timely file the Scheduling Order will result in the Pretrial Conference being removed from the docket.

COUNSEL: Submits the **Chesapeake Divorce Scheduling Order (Form 1)** to the Clerk at least 7 days before the Pretrial Conference Date.

COURT: Reviews and enters the order.

EVENT: Pretrial Conference

RULE: If both parties' pretrial conference briefs and any required worksheets and forms, and (if applicable) a Parental Education Certificate of Compliance (*see* Va. Code § 20-103(A) *and* Form 3) are not filed **at least 5-days prior to the Pretrial Conference**, and/or the **Chesapeake Divorce Scheduling Order (Form 1)** is not

filed **at least 7-days before the Pretrial Conference**, the Staff Attorney or Law Clerk will fax to both counsel a **Notice of Non-Compliance (Form 10)**, detailing the reason(s) that the matter has been removed from the docket. If all required documents have been filed, the pretrial conference will be held. The purpose of the pretrial conference is to discuss the issues, to reach stipulations, to discuss settlement and any other matters which may aid in the disposition of the case as authorized by Rule 4:13 of the Rules of the Supreme Court of Virginia. Parties are ordered to attend a Judicial Settlement Conference, unless waived by the Court. Counsel and the parties must attend in person.

COUNSEL: **Five (5) days prior to the pretrial conference**, exchanges with counsel and files with the court the **Pretrial Conference Brief (Form 4)** and all forms and worksheets that are applicable to the issues in the case. Attends the pretrial conference.

COURT: Enters Final Pretrial Conference Order.

EVENT: Judicial Settlement Conference

RULE: The court will refer the case to a retired judge for a Judicial Settlement Conference at the Pretrial Conference, unless the requirement is waived by the Court.

COUNSEL: Counsel contacts a retired judge from the Supreme Court of Virginia's Judicial Settlement Conference Program to schedule a date, time and location of the settlement conference. Counsel then completes and submits the **Order of Designation and Referral to Settlement Conference (Form 9)**. Contact the Office Coordinator at (757) 382-3051 to facilitate the referral of the case to a retired judge for a settlement conference. Counsel and parties attend the settlement conference. Information about the Supreme Court's Judicial Settlement Conference Program, including the list of retired judges, is available at: <http://www.courts.state.va.us/jsc/home.html>

COURT: Reviews and enters order.

EVENT: Filing of Praecipe / Setting a Trial Date

RULE: Upon completion of the Judicial Settlement Conference, unless waived by the Court, a party who desires to have the cause set for trial shall notify the Clerk of Court by **Praecipe (Form 11)**. The Clerk must receive notice no later than the Thursday preceding the docket call at which the case is to be set. The party requesting action by the Clerk shall serve a copy of the **Praecipe (Form 11)** on each counsel of record in the manner provided by Rule 1:12 of the Rules of Supreme Court of Virginia.

COUNSEL: Complete and submit **Praecepte (Form 11)**, certifying that the parties have completed the Judicial Settlement Conference. The case will be called at the next docket call to be set for trial.

EVENT: Filing Exhibit and Witness List

RULE: Counsel shall exchange 15-days before trial a list specifically identifying each exhibit to be introduced at trial, copies of any exhibits not previously supplied in discovery, and a list of witnesses proposed to be called at trial.

COUNSEL: Exchanges Exhibit and Witness List.

EVENT: Request for Continuance of Trial Date

RULE: Continuances will only be granted for good cause shown. If a case is continued a new Pretrial Conference date will be set and if a **Chesapeake Divorce Scheduling Order** has not been submitted, counsel must submit one within 21 days.

COUNSEL: Requests a continuance of the trial date by telephone or written motion with the duty judge or by placing the motion on the Wednesday motion docket. If the case is continued, complies with the terms of the **Chesapeake Divorce Scheduling Order** previously entered, or if a **Chesapeake Divorce Scheduling Order** has not been submitted, submits one at least 7 days prior to the Pretrial Conference Date.

COURT: Hears the motion for continuance. Enters **Continuance Order (Form 6)**. Judicial Assistant mails/faxes order to counsel.

CLERK: Gets copy of **Continuance Order** and updates CMS with new trial date.

EVENT: Trial

RULE: Failure to complete and file all required forms may result in limitation or exclusion of evidence and/or claims, and/or the case being removed from the trial docket and/or other appropriate sanction.

A court reporter is required and counsel must arrange to have one present. This requirement applies to pro se litigants and to litigants represented by counsel.

COURT: The Court will hear contested divorces, Monday, Tuesday, Thursday or Friday on the 10:00 A.M. docket.

SUPREME COURT OF VIRGINIA
WEB-SITE INFORMATION

I. WEB-SITE INFORMATION FOR LISTING OF PARENT EDUCATION PROVIDERS

To access the Virginia Supreme Court's main Web-site for the **Parent Education Providers**, please visit: **<http://www.courts.state.va.us>** and select menu item "**Programs and Services**" from the main page.

II. WEB-SITE INFORMATION FOR JUDICIAL SETTLEMENT CONFERENCE PROGRAM

To access the Supreme Court of Virginia's Web-site for the **Judicial Settlement Conference Program**, including a list of retired judges who participate in the program, please visit: **<http://www.courts.state.va.us/jsc/home.html>**

APPENDIX I – FORMS AND ORDERS

FORMS AND ORDERS FILED BY COUNSEL

Chesapeake Divorce Scheduling Order	Form 1
<i>Repealed</i>	Form 2
Parent Education Seminar Order & Certification	Form 3
Pretrial Conference Brief	Form 4
Decree of Reference (Referral to Commissioner)	Form 7
Order of Designation and Referral to Settlement Conference	Form 9
Praecipe for Contested Divorce	Form 11

FORMS AND ORDERS ISSUED BY COURT

Final Pretrial Conference Order	Form 5
Continuance Order	Form 6
General Chancery Order	Form 8
Notice of Non-Compliance: Contested Divorce Pretrial Conference	Form 10

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

Plaintiff,

v.

Civil No.: _____

Defendant.

CHESAPEAKE DIVORCE SCHEDULING ORDER

I. Issues [check all that apply]

- Child Support
- Child Visitation
- Child Custody
- Spousal Support
- Equitable Distribution
- Grounds of Divorce

II. Trial

Upon completion of the judicial settlement conference, unless waived by the Court, a party who desires to have the cause set for trial shall notify the Clerk of Court by Praeceptum (Form 11). The Clerk must receive notice no later than the Thursday preceding the docket call at which the case is to be set. The party requesting action by the Clerk shall serve a copy of the Praeceptum on each counsel of record in the manner provided by Rule 1:12 of the Rules of Supreme Court of Virginia.

III. Discovery

The parties shall complete discovery, including depositions, by 30-days before trial; however, depositions taken in lieu of live testimony at trial will be permitted until 15 days before trial. Discovery and depositions may be taken after the specified time period by agreement of counsel of record or for good cause shown. The foregoing deadlines shall not relieve a party of the obligation to respond to discovery requests within the time periods set forth in the Rules of the Supreme Court of Virginia, including, in particular, the duty to supplement or amend prior responses pursuant to Rule 4:1(e).

IV. Designation of Experts

If requested in discovery, experts shall be identified on or before 90-days before trial. If requested, all information discoverable under Rule 4:1(b)(4)(A)(I) of the Rules of Supreme Court of Virginia shall be provided or the expert will not ordinarily be permitted to express any non-disclosed opinions at trial. The foregoing deadline shall not relieve a party of the obligation to respond to discovery requests within the time periods set forth in the Rules of Supreme Court of Virginia, including, in particular, the duty to supplement or amend prior responses pursuant to Rule 4:1(e).

V. Dispositive Motions

All dispositive motions shall be presented to the court for hearing as far in advance of the pretrial conference as practical.

VI. Parent Education Seminar.

If a child's custody, visitation or support, is contested, the parents must attend an educational seminar conducted by a qualified person or organization on the effects of separation or divorce on children, parenting responsibilities, options for conflict resolution and financial responsibilities pursuant to Virginia Code § 20-103, unless the Court grants an exemption from attendance of such program for good cause shown. Counsel shall provide proof of attendance to opposing counsel within 21 days of the entry date of the parent education seminar order. Parent Education Seminar Certificate of Attendance must be filed with the Court at least 5-days prior to the pretrial conference.

VII. Judicial Settlement Conference

The parties will be ordered to attend a settlement conference at no cost to the parties, unless waived by the Court.

VIII. Pretrial Conference

A pretrial conference will be held on _____ at _____. The purpose of the pretrial conference is to discuss the issues, to reach stipulations, to discuss settlement and any other matters that may aid in the disposition of the case. The parties and counsel must attend the pretrial conference in person. The parties will be ordered to attend a Judicial Settlement Conference, unless waived by the Court. Five (5) days prior to the pretrial conference the Pretrial Conference Brief and all worksheets and forms that are applicable to the case must be completed and exchanged by counsel and filed with the court. The worksheets and forms required by the Court applicable to the issues in this case:

- Monthly Income and Expense Statement of each party
- Child Support Guideline Worksheets
- Equitable Distribution Forms
- Such other forms as directed by the Court

A Final Pretrial Conference Order will be entered by the judge at the conclusion of the conference.

IX. Exhibit and Witness List

Counsel shall exchange 15-days before trial a list specifically identifying each exhibit to be introduced at trial, copies of any exhibits not previously supplied in discovery, and a list of witnesses proposed to be introduced at trial. Any exhibit or witness not so identified will not be received in evidence, except in rebuttal or for impeachment or unless the admission of such exhibit or testimony of the witness would cause no surprise or prejudice to the opposing party and the failure to list the exhibits or witness was through inadvertence.

X. Continuances

Continuances of the trial date will only be granted by the Court for good cause shown.

XI. Court Reporter

A court reporter is required for the trial and must be secured by the parties.

XII. Waiver of Modification of Terms of Order

Upon motion, the time limits and prohibitions contained in this order may be waived or modified by leave of court for good cause shown.

XIII. Failure To Comply

Failure to comply with any provision of this Order by any party may result in limitation or exclusion of evidence, and/or claims, and/or the case being removed from the trial docket and/or any other appropriate sanctions.

IT IS SO ORDERED.

ENTER: _____

Judge

Counsel for Plaintiff

Counsel for Defendant

REPEALED

June 18, 2008

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

Plaintiff,

v.

Civil No.: _____

Defendant.

**PARENT EDUCATION SEMINAR ORDER
Custody, Visitation, and/or Support of Child is Contested
Virginia Code § 20-103**

The above-named parties, parents of a child whose custody, visitation or support is contested are ordered to attend and complete a parent education seminar on the effects of separation or divorce on minor children, parenting responsibilities, options for conflict resolution, and financial responsibilities; unless the Court grants an exemption from attendance of such program for good cause shown.

The parties have agreed on the following provider from a List of Parent Education providers on the Supreme Court's web site at www.courts.state.va.us:

Name of Provider:

Phone No.:

Fax No.:

The parents shall attend the educational seminar within 14 days from the date of this Order. The education seminar shall be attended before any dispute resolution orientation session. Counsel shall provide proof of attendance to opposing counsel within 21 days from the date of this Order. Proof of attendance must be received by the Court at least 5-days prior to the pretrial conference.

Based on a parent's ability to pay, each parent shall be responsible for paying a fee of no more than \$50.00 (fifty dollars) for the seminar. The fee is payable to the seminar provider.

The provider will return the below certificate to the court.

THE CLERK'S OFFICE OF THIS COURT SHALL TRANSMIT A COPY OF THIS ORDER TO THE PROVIDER BY FACSIMILE.

IT IS SO ORDERED.

ENTER: _____

JUDGE

Counsel for Plaintiff

Counsel for Defendant

CERTIFICATE TO BE COMPLETED BY PROVIDER AND RETURNED TO THE COURT
(Certificate must be filed with the Court at least 5-days prior to the Pretrial Conference)

____ Parties appeared on _____.

____ The following named party did not appear for the scheduled session:
_____.

____ I was not contacted within 14 days of this Order to schedule a session.

Signature of Provider: _____

Date: _____

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

Plaintiff

v.

Civil No._____

Defendant

PRETRIAL CONFERENCE BRIEF

Counsel for Plaintiff: _____

Counsel for Defendant: _____

Pretrial Conference set for: _____

Trial set for: _____

Submitted by: _____

1. The contested issues in the case are:

2. The documentary evidence is:

3. The specific relief requested is:

4. All forms & worksheets that are applicable to the issues in the case must be filed with this brief. (See Appendix II)

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

_____,
Plaintiff,

Vs. Civil No. _____

_____,
Defendant.

FINAL PRETRIAL CONFERENCE ORDER

THIS DAY CAME the plaintiff in person and counsel for plaintiff and also came the defendant in person and counsel for defendant who appeared for a conference to consider all matters within the scope of Rule 4:13 of the Rules of the Supreme Court of Virginia, for purposes of trial and/or disposition of the above-captioned civil matter.

As a result of this conference the following is **ORDERED** and shall control the subsequent course of this action unless modified at trial to prevent a manifest injustice:

A. ISSUES: The following are issued to be litigated in this cause:

1. Grounds for Divorce: _____

2. Equitable Distribution:
a. _____

b. _____

c. _____

d. _____

Equitable Distribution Forms filed on: _____

3. Spousal Support: _____

Monthly Income and Expense Statement of each party filed on: _____

3. Child Support/Custody: _____

Child Support Guideline Worksheets filed on: _____

B. DISCOVERY:

The parties certify that discovery is complete, but will be updated to reflect current situations not later than fourteen (14) days before the trial.

Discovery is not yet complete. The parties agree to the following limitations on the scope and methods of discovery: _____

LIMITATIONS: The Court imposes the following limitations on counsel:

1. Expert Witnesses are limited as follows:

2. Other limitations:

C. ATTORNEY’S FEES AND COSTS:

1. If a claim is made for the payment of attorney’s fees and Court costs, counsel agrees to submit itemized statements at trial with a copy to opposing counsel.
2. Payment for the Court Reporter will initially be provided for as follows, subject to this Court’s final Order regarding costs and expenses: _____

E. JUDICIAL SETTLEMENT CONFERENCE

The parties shall attend a Judicial Settlement Conference with a retired judge prior to setting a trial date. Upon completion of the Judicial Settlement Conference a party may file a **Praecipe (Form 11)**, certifying the completion of the Settlement Conference, to have the matter called at docket call to be set for trial.

The parties are not required to attend a Judicial Settlement Conference. This matter is scheduled for trial on _____ at _____ AM / PM and the estimated length of trial is _____ day(s).

ENTER: _____

JUDGE

SEEN AND

Counsel for Plaintiff

SEEN AND

Counsel for Defendant

Form 6

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

Plaintiff,
v. **Civil No.** _____

Defendant.

CONTINUANCE ORDER

This matter came on motion of the **Plaintiff** **Defendant** to continue the current trial date of _____.

Plaintiff: objects / concurs

Defendant: objects / concurs

Number of Prior Continuances: _____

The motion for a continuance is **DENIED**.

For good cause shown, the motion for a continuance is **GRANTED**.

The matter is continued for trial on: _____.

The matter shall be set for trial at docket call, on: _____.

IT IS SO ORDERED.

ENTER: _____

Judge

A copy of this Order was faxed/mailed to the following counsel and all pro se parties on _____ by:

Deputy Clerk

_____ Fax No.: _____
Counsel for Plaintiff

_____ Fax No.: _____
Counsel for Defendant

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

Plaintiff,

v.

Civil No. _____

Defendant.

DECREE OF REFERENCE

THIS CAUSE came this day to be heard upon the Complaint, with process properly served upon the defendant. In accordance with Section 8.01-607, Code of Virginia, 1950, as amended, it is

ADJUDGED, ORDERED and DECREED that this cause is referred to _____, a Commissioner in Chancery of this Court, who is directed to take testimony and report his findings to the Court pursuant to the General Chancery Order for such causes.

ENTER: _____

Judge

Endorsements:

Counsel for Plaintiff

Counsel for Defendant

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

GENERAL CHANCERY ORDER
RELATING TO DIVORCE, ANNULMENT, AFFIRMANCE AND
SEPARATE MAINTENANCE CAUSES

WHEREAS, chancery causes for divorce, annulment, affirmance, and separate maintenance may be referred to a Commissioner in Chancery of this court for inquiry and report; and

WHEREAS, the efficient handling of such causes will be promoted by the use in such causes of an abbreviated order of reference making reference to this general order; and

WHEREAS, the provisions of the most recent General Chancery Order entered in this court for the same purpose are now in need of revision;

NOW, THEREFORE, it is ADJUDGED, ORDERED and DECREED that hearings in such causes held before a Commissioner in Chancery of this court which are commenced on or after July 1, 2005 shall be conducted in accordance with this General Chancery Order and the Commissioner shall inquire and report, as follows:

1. On what date(s) was the hearing held?
 - (a) What method of service (subpoena in chancery, waiver or acceptance) was made upon the defendant?
 - (b) Was notice given of the hearing before the Commissioner, and by what method?
2. Who appeared at the hearing before the Commissioner as a party or as a witness?

- (a) If the parties were represented by counsel, who represented each party?
 - (b) Did all persons who testified appear personally before the Commissioner?
 - (c) If any person appeared by deposition, was that appearance authorized by an order of the Court?
3. Does this Court have personal jurisdiction over the defendant?
 4. Does this Court have jurisdiction of the subject matter?
 5. Are the parties sui juris?
 - (a) Is either party incarcerated?
 - (b) If so, has a committee or guardian ad litem been appointed, or has the defendant waived his/her right to one?
 6. Is the defendant in the armed forces of the United States?
 - (a) If so, has he/she either appeared in person or by counsel, executed a waiver of rights under the Soldiers' and Sailors' Civil Relief Act?
 - (b) Had an attorney been appointed to represent him/her?
 7. When and where were the parties lawfully married?
 8. Pleading the grounds for divorce
 - (a) Do the pleadings state a ground for relief?
 - (b) In lieu of the pleaded cause, has a motion been made as permitted by §20-121.02?
 9. Does independent, corroborating evidence support the ground upon which relief is sought?
 10. Should relief be granted by way of divorce, etc.?
 11. Stipulation agreement

- (a) Is there a valid stipulation and agreement between the parties?
 - (b) Does the Commissioner recommend that it be ratified and affirmed?
 - (c) Should it be incorporated in the decree?
12. Spousal support
- (a) Should either party be required to pay spousal support, or should there be a reservation of spousal support?
 - (b) To whom should support be paid and in what amount? Should it be paid in installments, by lump sum, or by a combination, and for what duration?
 - (c) Should an income deduction order be entered?
 - (d) Has any provision been made for health care for the dependent spouse?
 - (e) What written findings and conclusions are made by the Commissioner as required by §20-107.1(F)?
13. Were there any children born of the parties during the marriage, adopted during the marriage, or born of the parties before the marriage whose paternity has been acknowledged?
14. Is child custody contested?
15. If custody is contested:
- (a) Has an affidavit been filed or the general information been provided under oath in the initial pleadings as required by § 20-132?
 - (b) Have the parties attended the educational seminar required by §20-103?
 - (c) Have the parties attended a dispute resolution evaluation session pursuant to §20-124.4?

16. Custody
 - (a) Who should be awarded custody? Why?
 - (b) Has the commissioner considered all the factors in § 20-124.3?
 - (c) If custody is to be awarded to a person other than the parents, has that person been made a party to this action?
17. Is visitation contested?
18. Who is to be awarded visitation, and on what terms?

If visitation is to be awarded to a person other than the parents, has that person been made a party to this action?
19. Is child support contested?
20. Child support
 - (a) Who should be required to pay child support?
 - (b) What is the proper amount of support? Why?
 - (c) What payment method should be used?
 - (d) Has the commissioner considered all of the factors in § 20-108.1(B) and § 20-108.2?
 - (e) Is this the amount set out in the statutory guidelines? If not, why not?
 - (f) Should payment through the Department of Social Services be required?
 - (g) Should the payment through the Department of Social Services be made by income deduction order?
21. Health care for child(ren)
 - (a) What provision is made for health care for the child(ren)?

- (b) Are any extraordinary medical expenses to be paid by or reimbursed to a party pursuant to § 20-108.2(D) and § 20-108.2(G)(3)? How is such payment or reimbursement to be made?
22. Arrearages in court-ordered support
- (a) Is there a child or spousal support arrearage as a result of any prior order of this court?
 - (b) What is the amount of the arrearage and what is the period of time calculated for the arrearage?
 - (c) Has the obligee filed a written waiver of the right to collect interest on the arrearage? If not, from what date should interest accrue?
 - (d) Should additional periodic support be required to curtail the arrearage, and if so, in what amount?
23. Is there an arrearage of any type other than that specified in Question 22 above arising from a court order or from an agreement between the parties?
- (a) What is the nature of the arrearage, the amount, and what measures are recommended to curtail it?
 - (b) Should a judgment be awarded for the arrearage? If so, should it bear interest and from what date?
24. Should any party be required to sign the appropriate tax forms necessary to grant to the other party the right to take the federal and/or state income tax dependency exemption for any child or children of the parties? For which tax year(s)?
25. If a party requests that her former name be restored, what is the Commissioner's recommendation?

26. What is the proper compensation for the Commissioner?
27. Should either party be required to contribute toward the counsel fees of the other party?
What is the amount to be paid and by what date should it be paid?
28. How should the costs of the action be assessed and by what date should they be paid?
29. What are the social security numbers (or other control numbers issued by the Department of Motor Vehicles) of each party?
30. Any other matter deemed proper by the Commissioner or requested to be reported by any party, including information required by § 20-60.3.

Equitable Distribution: In order to provide for the orderly handling and disposition of those issues enumerated in § 20-107.3, as amended, the request permitted to be made by either party (i) shall be in writing, and (ii) shall set forth the specific relief sought, as provided for in § 20-107.3 and (iii) shall be filed in the action prior to the entry of any Order of Reference to a Commissioner in Chancery. In all such causes wherein a written request for relief under § 20-107.3 has been made by a party, the Commissioner shall inquire and report as required by the following, or as required by any future amendments to this Order:

1. (a) On what date(s) was the hearing held?
(b) Was notice given of the hearing before the Commissioner, and by what method?
2. (a) Who appeared at the hearing before the Commissioner as a party or as a witness?
(b) If the parties were represented by counsel, who represented each party?
(c) Did all persons who testified appear personally before the Commissioner?
(d) If any person appeared by deposition, was that appearance authorized by an order of the court?

3. What property is the separate property of each party and what is the value of the separate property?
4. What property is marital property? Who holds legal title to the marital property? What is the value of the marital property?
5. What property is part marital and part separate property? Who holds legal title to this property? What is the value of this property?
6. What valuation date was utilized by the Commissioner in the valuation of all property? Why?
7. Does the Commissioner recommend the division or transfer of jointly owned marital property? Which property and under what terms?
8. Does the Commissioner recommend the granting of a monetary award? To whom and under what terms and conditions?
9. Does the Commissioner recommend the apportionment and payment of the debts of the parties or either of them? Which debts and under what terms and conditions?
10. Does the commissioner recommend the payment of any marital share of any pension, profit sharing or deferred compensation plan or retirement benefit, whether vested or non-vested? How should such payment be made?
11. Is there a personal injury or workman's compensation recovery that is marital property? Does the Commissioner recommend payment of a percentage of the marital share?
12. Has the Commissioner considered all of the factors in § 20-107.3(E)?
13. Any other matter deemed proper by the Commissioner.

It is further ADJUDGED, ORDERED and DECREED that this General Chancery Order shall become effective for all hearings commenced on or after July 1, 2005 and shall remain in effect until amended by further order of this court.

It is further ADJUDGED, ORDERED and DECREED, in causes for divorce, annulment, affirmance and separate maintenance heard by a Commissioner in Chancery:

It shall be the responsibility of the party arranging the hearing date for an uncontested case before the Commissioner to pay to the Commissioner his fee in advance of the hearing. The fee of the Commissioner in uncontested cases shall be \$100.00, which shall include the stenographic fee.

The fee of the Commissioner in cases in which equitable distribution is contested shall be a flat fee of \$100.00 per hearing hour and a \$150.00 report fee. The fee in contested cases in which equitable distribution is not contested shall be a flat fee of \$100.00 per hearing hour for the entire hearing.

In all contested cases, the commissioner's fee shall be determined at the applicable hourly rate from the scheduled start of the hearing to the conclusion thereof, less any time for recesses (lunch, dinner, overnight, etc.). Any time less than a full hour shall be prorated in quarter-hour segments with any time less than a quarter hour deemed to be a full quarter-hour segment.

In contested cases the Commissioner's fee and the court reporter's fee shall be paid in advance of the hearing. It shall be the responsibility of the party arranging the hearing date to contract for a court reporter to be present at the hearing.

In all contested cases, the Commissioner shall require the parties to appear at a pre-hearing conference at least ten (10) days prior to the hearing date, for which the commissioner

may charge the applicable hourly hearing fee rate. The Commissioner may require the parties in contested cases to submit pre-hearing briefs.

The Commissioner's fee and the stenographic or court reporter fee shall be taxed as a part of the costs of the proceeding in all cases.

When a hearing has been scheduled with a Commissioner and it is continued upon request of a party, then the Commissioner shall be entitled, in his/her discretion, to charge a \$100 cancellation fee unless notice of cancellation is given to the Commissioner not less than two (2) full business days (at least 48 hours) prior to the hearing. When a hearing designated as "contested" has been scheduled with a Commissioner, its designation may thereafter be changed to "uncontested" without cost to the parties, provided ten days' advance notice of the change in designation is provided to the Commissioner. If less than ten days' notice of such change is provided to the Commissioner, the Commissioner may, in his/her discretion, charge a \$100 re-designation fee.

When an Order of Reference to a Commissioner in Chancery has been entered and ninety (90) days have elapsed without a party scheduling a hearing time and date with the Commissioner, the Commissioner may return the file, along with a certification that no hearing has been scheduled, to the Clerk's Office. Thereafter, the Order of Reference shall be deemed vacated.

The Commissioners shall observe the following time standards:

1. In uncontested cases, the commissioner's report shall be filed 10 days from the date of the hearing.

2. In contested cases, the commissioner's report shall be filed 30 days from the date the transcript is filed, or if there are post-trial briefs, 30 days from the date that the last post-trial brief is filed, whichever occurs last.

The provisions of this Order shall become effective for all hearings commenced on or after July 1, 2005. For hearings held prior to July 1, 2005, the General Chancery Order and Supplemental General Chancery Order Concerning Equitable Distribution shall remain in effect.

Entered: July 1, 2005

S/ V. Thomas Forehand, Jr
Chief Judge

S/ S. Bernard Goodwyn
Judge

S/ Bruce H. Kushner
Judge

S/ Frederick H. Creekmore
Judge

S/ Randall D. Smith
Judge

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

Plaintiff,

v.

Case No.

Defendant.

ORDER OF DESIGNATION AND REFERRAL TO SETTLEMENT CONFERENCE

The Court has determined that this matter, which is currently before the Court as a contested civil matter, is appropriate for referral to a Judicial Settlement Conference. It is hereby ORDERED that:

1. The matter is referred to a Judicial Settlement Conference, for which there will be no cost to the parties.
2. Pursuant to Virginia Code Section 17.1-105(A), the Honorable _____, Retired Judge of the _____ Judicial Circuit, and a qualified Judicial Settlement Conference judge, is designated to conduct a Settlement Conference only, to assist the judges of the First Judicial Circuit in the performance of their duties.
3. Counsel will schedule a pre-Settlement phone conference with the Settlement Judge, in order to verify the date, time, and location of the Settlement Conference, no later than one week prior to the Settlement Conference.
4. Counsel must submit a confidential pre-conference brief, of no longer than five pages, to the Settlement Judge no later than 5 days before the Settlement Conference.
5. Each party must provide a representative in person or by telephone who shall have final authority to settle the case.
6. Irrespective of this referral, this case has been set for return to the court in accordance with the Court's normal docketing procedures on _____ at 10:00 A.M.

7. The Court must be informed in writing if the dispute is resolved prior to the return date. Otherwise, the parties shall appear in court at that time.
8. The Clerk shall distribute a copy of this order to the Supreme Court of Virginia and to all counsel of record.

ENTER: _____

Judge

Attorney for the Plaintiff

Attorney for the Defendant

**CHESAPEAKE CIRCUIT COURT
 CONTESTED DIVORCE PRETRIAL CONFERENCE
NOTICE OF NON-COMPLIANCE**

_____ v. _____

Case No. _____

ATTN: _____, p.q. Fax No.: _____
 _____, p.d. Fax No.: _____

For the reasons detailed below, the Pretrial Conference scheduled in the above-referenced case for _____ has been **removed from the docket**. Please call the motions line at (757) 382-3074 to reschedule your Pretrial Conference once you have fulfilled the requirements outlined in the Contested Divorce Manual available on the Court’s website. If you believe you have submitted the required information and have received this notice in error, please fax a brief explanation to my attention at (757) 382-3080.

Required Information		Plaintiff	Defendant
Pretrial Brief (Form 4)			
1.	Filed at least five days in advance		
2.	Lists contested issues		
3.	Specifies relief requested		
4.	Details documentary evidence		
5.	Monthly Income and Expense Sheets attached		
6.	Child Support Guidelines and Worksheets attached (if applicable)		
7.	Equitable Distribution Forms attached (if applicable)		
Parental Education Certificate of Compliance (if child custody/visitation/support is at issue)			
Scheduling Order (Form 1) filed at least seven days in advance			

**An “X” above denotes missing or insufficient information

Additional Explanation:

 Staff Attorney/Law Clerk

 Date

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

_____,
Plaintiff,

v.

Civil No.:

_____,
Defendant.

PRAECIPE

I certify that the above styled cause is matured for trial on its merits and that the parties have completed the Judicial Settlement Conference as ordered by the Court, which was held on the ____ day of _____, 20 ____, by Judge _____, and request the Clerk to place it on the docket to be called on _____ to be set for trial.

Counsel for _____

Certificate of Service

I certify that on the ____ day of _____, 20 ____, I mailed or delivered a true copy of the foregoing praecipe to all counsel of record herein pursuant to the provisions of Rule 1:12 of the Rules of the Supreme Court of Virginia, and served a true copy upon parties not represented by counsel, if any.

Counsel for _____

APPENDIX II

LIST OF REQUIRED WORKSHEETS AND FORMS TO BE GENERATED AND COMPLETED BY COUNSEL WHEN SUPPORT AND/OR EQUITABLE DISTRIBUTION ARE ISSUES IN THE CASE

1. MONTHLY INCOME AND EXPENSE STATEMENT OF EACH PARTY
2. CHILD SUPPORT GUIDELINE WORKSHEETS
 - Child Support Guideline Worksheet
 - Child Support Guideline Worksheet - Proposed deviations
 - Split Custody Support Guideline Worksheet
 - Combined Support Worksheet
 - Shared Custody Support Guideline Worksheet - Shared Calculation
 - Shared Custody Support Guideline Worksheet - Sole Calculation
 - Shared Custody Support Guideline Worksheet – Summary
3. EQUITABLE DISTRIBUTION FORMS
 - Personal Information Schedule and Factors for Equitable Distribution
 - Real and Personal Property Schedule
 - Business Property Schedule
 - Debt Schedule
 - Securities Investment Portfolio
 - Retirement Funds Schedule
 - Pension Schedule
 - Summary Worksheet
 - Proposed Distribution of Property
 - Source of Funds Worksheet (used to show the marital and the separate contributions to a piece of mixed or transmuted property)
 - Marital Fund Worksheet (used to allocate the separate and the marital interests in a 401(k) fund or other similar account into which regular deposits were made during the marriage and after the separation)
 - General Fund Worksheet (used to allocate the separate and the marital interests in a 401(k) fund or other similar account into which regular deposits were made before the marriage, during the marriage and after the separation)