

Tuesday 1st March, 2011.

It is ordered that the Rules heretofore adopted and promulgated by this Court and now in effect be and they hereby are amended to become effective May 2, 2011.

Amend Part One, General Rules Applicable To All Proceedings, to read as follows:

PART ONE
GENERAL RULES APPLICABLE TO ALL PROCEEDINGS

Rule 1:1. Finality of Judgments, Orders and Decrees.

All final judgments, orders, and decrees, irrespective of terms of court, shall remain under the control of the trial court and subject to be modified, vacated, or suspended for twenty-one days after the date of entry, and no longer. But notwithstanding the finality of the judgment, in a criminal case the trial court may postpone execution of the sentence in order to give the accused an opportunity to apply for a writ of error and supersedeas; such postponement, however, shall not extend the time limits hereinafter prescribed for applying for a writ of error. The date of entry of any final judgment, order, or decree shall be the date it is signed by the judge either on paper or by electronic means in accord with Rule 1:17.

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Rule 1:4. General Provisions as to Pleadings.

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(h) The clerk shall note and attest the filing date on every pleading. In an Electronically Filed Case, the procedures of Rule 1:17 shall be applicable to the notation by the clerk of the date of filing.

(i) The mention in a pleading of an accompanying exhibit shall, of itself and without more, make such exhibit a part of the pleading. Filing of such exhibits shall be governed by Rule 3:4.

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Rule 1:5. Counsel.

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When such firm name is signed to a pleading, notice or brief, the name of at least one individual member or associate of such firm must be signed to it. Papers filed electronically may be signed electronically or by inclusion of a digital image of the signature, as provided in Rule 1:17. Signatures to briefs and petitions for rehearing may be printed or typed and need not be in handwriting.

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Rule 1:10. Verification.

If a statute requires a pleading to be sworn to, and it is not, or requires a pleading to be accompanied by an affidavit, and it is not, but contains all the allegations required, objection on either ground must be made within seven days after the pleading is filed by a motion to strike; otherwise the objection is waived. At any time before the court passes on the motion or within such time thereafter as the court may prescribe, the pleading may be sworn to

or the affidavit filed. In an Electronically Filed Case, verification shall be subject to the provisions of Rule 1:17.

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Rule 1:12. Service of Papers after the Initial Process.

All pleadings, motions and other papers not required to be served otherwise and requests for subpoenas duces tecum shall be served by delivering, dispatching by commercial delivery service, transmitting by facsimile, delivering by electronic mail when Rule 1:17 so provides or when consented to in writing signed by the person to be served, or by mailing, a copy to each counsel of record on or before the day of filing.

Subject to the provisions of Rule 1:17, service pursuant to this Rule shall be effective upon such delivery, dispatch, transmission or mailing, except that papers served by facsimile transmission completed after 5:00 p.m. shall be deemed served on the next day that is not a Saturday, Sunday, or legal holiday. Service by electronic mail under this Rule is not effective if the party making service learns that the attempted service did not reach the person to be served.

At the foot of such pleadings and requests shall be appended either acceptance of service or a certificate of counsel that copies were served as this Rule requires, showing the date of delivery and method of service, dispatching, transmitting, or mailing. When service is made by electronic mail, a certificate of counsel that the document was served by electronic mail shall be served by mail or transmitted by facsimile to each counsel of record on or before the day of service.

Rule 1:13. Endorsements.

Drafts of orders and decrees shall be endorsed by counsel of record, or reasonable notice of the time and place of presenting such drafts together with copies thereof shall be served pursuant to Rule 1:12 upon all counsel of record who have not endorsed them. Compliance with this Rule and with Rule 1:12 may be modified or dispensed with by the court in its discretion. In an Electronically Filed Case, endorsement and specification of any objections to the draft order shall be accomplished as provided in Rule 1:17.

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Rule 1:16. Filing Format and Procedure.

(a) Except as provided in Rules 1:17, 3:3, 3A:23, 7A:7(c), and 8:8(f) pertaining to Electronically Filed Cases,

(1) All pleadings, motions, briefs, depositions, requests for discovery and responses thereto, and all other documents filed in any clerk's office in any proceeding pursuant to these Rules shall be produced on pages 8 1/2 by 11 inches in size and all typed material shall be double spaced except for quotations.

(2) Subdivision (a)(1) of this Rule shall not apply to tables, charts, plats, photographs, and other material that cannot be reasonably reproduced on paper of that size.

(b) No paper shall be refused for failure to comply with the provisions of this Rule, but the clerk may require that the paper be redone in compliance with this Rule and substituted for the paper initially filed. Counsel shall certify that the substituted paper is identical in content to the paper initially filed.

Rule 1:17. Electronic Filing and Service.

(a) *Scope of Electronic Filing Rules.* Pursuant to § 8.01-271.01 and Article 4.1 (§§ 17.1-258.2 et seq.) of Chapter 2 of Title 17.1 of the Code of Virginia, this Rule shall be applicable in any court that has established an electronic filing system under the standards and procedures set forth in subdivision (c) of this Rule, and applies in civil cases in circuit court as provided in Rule 3:3, in criminal cases in circuit court as provided in Rule 3A:23, in general district court proceedings as provided in Rule 7A:7(c), and in juvenile and domestic relations district court proceedings as provided in Rule 8:8(f).

(b) *Definitions.*

(1) "**Electronic Document**" means any defined set of textural matter, graphic content or other encoded information in an approved format, that can be read, printed, and stored or retained as electrical, magnetic or optically encoded signals in some medium and that can be transmitted by a data-link.

(2) "**Data-link**" refers to any means of electronic transmission of a document in a coded form such that the document can be received, read, printed, and stored by the recipient.

(3) "**E-Filing Portal**" means the electronic web site maintained by the Supreme Court of Virginia designated as the facility for electronically filing documents, or an alternative which meets the standards set forth in this Rule and is made available by individual circuit courts.

(4) "**Electronic filing**" means the official filing of an electronic document on the court's docket and case files in electronic form by transmission over a data-link.

(5) "**Electronically Filed Case**" means a case in which pleadings, motions, notices and other filings are made

electronically in accordance with these rules.

(6) "**Hyperlink**" means an electronic connection or reference to another place in the document, such that when the hyperlink is selected the user is taken to the portion of the document to which the link refers. It is not in itself a part of the document.

(c) *System Operational Standards.* In addition to the obligations and procedures set forth in subdivision (d) of this Rule, electronic filing systems under this Rule shall meet these requirements:

(1) Electronic documents must be stored without loss of content or material alteration of appearance.

(2) Files capable of carrying viruses into court computers must be scanned for viruses prior to being written to disk in the clerk's office.

(3) The electronic filing system must be capable of securing the document upon receipt so that it is protected from alteration.

(4) The electronic filing system must be capable of establishing the identity of a sender of a document by means of a registered user identity and password, or by digitally encrypted electronic signatures, or by any other means reasonably calculated to ensure identification to a high degree of certainty.

(5) Remote electronic access to documents submitted in an electronically filed case and stored electronically shall be limited to judges, court personnel, any persons assisting such persons in the administration of the electronic filing system, and to counsel of record, including parties appearing pro se, who have complied with the registration requirements to use the electronic filing system.

(6) If the court accepts payment of fees by credit card,

debit card, debit account, or electronic funds transfer, registration for the user identity shall include submission of all information required to effect the payment of fees. Electronic submission of this information shall be deemed a signature by the cardholder sender, authorizing the payment of document filing fees. This information shall be kept confidential. There shall be an electronic confirmation from the clerk of any charge to or the debit from the user's account.

(7) No unauthorized person shall be permitted access to other court networks, data or applications unrelated to electronic filing. Administrative access to computer equipment and networks handling electronic filing will be restricted to designated court employees or authorized maintenance personnel.

(8) Electronic filing systems must reasonably protect filed documents against system and security failures and must provide, at a minimum, for daily backup, periodic off-site backup storage if feasible, and prudent disaster recovery mechanisms.

(d) *Electronic Service and Filing Practice and Procedures.*

(1) In an Electronically Filed Case, all pleadings, motions, notices and other material filed with the court shall be in the form of Electronic Documents except where otherwise expressly provided by statute or the Rules of Court, or where the court orders otherwise in an individual case for good cause shown.

(2) Each attorney admitted to practice in the Commonwealth shall be entitled to a registered User ID and password issued by the clerk, or access using any comparable identification system approved by the Supreme Court, for the electronic filing and retrieval of documents.

(3) The clerk shall provide a means, in the courthouse or other designated location, for the parties, counsel and the public to review and copy electronic records from the electronic file

during normal business hours.

(4) The format for electronically filed material shall be the Portable Document Format (PDF). Notice will be provided if any other format is approved.

(5) (i) Subject to the provisions of subsections (d)(6) and (7) of this Rule, an electronic document shall be filed by following the procedures of the applicable E-Filing Portal, and shall be deemed filed on the date that it is received in the E-Filing Portal. Filings will be accepted during normal business hours and until 11:59:59 p.m. on any day the clerk's office is open.

(ii) Upon electronic filing of a document, an electronic confirmation shall be transmitted to the filing party indicating that the document has been successfully filed through the E-Filing Portal. In addition, the court to which the document is directed shall promptly transmit an electronic acknowledgement of its receipt of the electronically filed document, specifying the identity of the receiving court, the date the document was received by the court, and a court-assigned document reference or docketing number.

(6) A person who files a document electronically shall have the same responsibility as a person filing a document in paper form to ensure that the document is properly filed, complete, and readable. However,

(i) if technical problems at the E-Filing Portal result in a failure to timely file the electronic document, counsel shall provide to the clerk of the court on the next business day all documentation which exists demonstrating the attempt to file the document through the E-Filing Portal, any delivery failure notice received in response to the attempt, and a copy of the document, and

(ii) in the event that the E-Filing Portal was not available due to technical problems during the last filing hours of a business day, the office of the clerk of the court to which the document is directed shall be deemed to have been closed on that day solely with respect to that attempted filing and the provisions of Virginia Code § 1-210(B) and (C) shall apply to that particular attempted filing for purposes of computing the last day for performing any act in a judicial proceeding or the filing of any legal action.

(7) (i) If the clerk of court determines that an electronically filed document is defective because of an incorrect or missing filing fee or missing signature or required verification, notice shall be sent electronically to the filing party, who shall have a period of five business days after such notice is transmitted in which to cure the defect. A copy of this notice will be retained in the permanent electronic case file maintained by the court. The document remains validly filed during the period afforded for curing such defects and until an order of the court provides otherwise.

(ii) If the defect in an electronically filed document set forth in a notice transmitted pursuant to subsection (d)(7)(i) is not cured within the permitted period, or if any other defect considered grounds for rejection or striking of a filed document are identified by the clerk, the clerk shall prepare and transmit electronically to all parties a notice that the defect will be presented to a judge of the court at a specified date and time for consideration of an order striking the document from the court records or directing other action. The hearing date specified in the notice under this subsection shall be at least 10 calendar days after transmission of the notice for that hearing.

(8) The clerk's office must accommodate the submission of non-electronic documents in an Electronically Filed Case if filing in electronic form cannot, as a practical matter, be achieved. Such documents shall be imaged to facilitate the creation of a single electronic case file to the extent reasonably possible. An outsized document that is capable of being imaged shall be retained in the form submitted.

(9) When a judge enters an order, the judge or clerk will update the electronic record to indicate the identity of the judge entering the order and the date it was entered, and shall send a notification to counsel of record that the order has been entered, along with a copy of the order or an electronic link providing access to such order. If the entry of an order is done on a paper copy of the order, a digital image of such order shall be made a part of the electronic record, and the endorsed original paper shall be retained for the record.

(10) Hyperlinks between two portions of a filed document or between two or more documents filed in the same case, are permissible, but hyperlinks to other documents, or to external websites, are prohibited. A hyperlink is not itself a part of the official filed document and each hyperlink must contain a text reference to the target of the link.

(e) *Application of, and Compliance with, Other Rules.* In an Electronically Filed Case:

(1) Unless otherwise agreed by all parties, or ordered by the court in an individual case for good cause shown, all documents required to be served - after the initial service of process - may be served by electronic transmission, or by delivering, dispatching by commercial delivery service, transmitting by facsimile, or mailing, a copy to each counsel of record on or before the day of filing. Such service shall be effective as provided in Rule 1:12.

(2) Annotation by the clerk as provided in Rule 1:4(h) is not required to be made physically upon the face of the pleading and - if it is made by a separate document - it shall specify the pleading to which such annotation pertains.

(3) An e-mail address of the counsel of record shall be included in the electronic documents filed as required by Rule 1:4(1).

(4) The approved electronic identification accompanying the document when filed shall constitute that person's signature on the document for purposes of Rule 1:5 and Virginia Code § 8.01-271.1.

(5) The provisions of Article 4.1 (§§ 17.1-258.2 et seq.) of Chapter 2 of Title 17.1 of the Code of Virginia shall be applicable where a document is to be notarized, sworn, attested, verified, or otherwise certified, or if any sworn signatures, stamps, seals or other authentications relating to the document are required by any statute or Rule, and an electronic or digitally imaged document with such accompanying entries shall be filed in the clerk's office. Electronic notarization in compliance with the Virginia Notary Act (§§ 47.1-1 et seq.) may also be employed with the filing.

(6) An acceptance of service or a certificate of counsel that electronic copies were served as this Rule requires, showing the date of delivery, shall electronically accompany the served papers and shall satisfy Rule 1:12.

(7) In compliance with Rule 1:13, drafts of orders, decrees and notices shall be served on each counsel of record. Such service may be by electronic transmission and shall make provision for electronic endorsement by multiple parties where applicable. Objections or other notations by the parties shall be entered upon the drafts so circulated, or appended to such drafts by specific

cross-reference or other unambiguous association. Endorsed drafts shall be submitted electronically whenever possible, and shall be accompanied by proof of service or acceptance of service when required by the rules of court. If there is no practical means of submitting an electronic or digitally imaged endorsed draft, the manually endorsed document shall be filed in the clerk's office. The clerk shall accommodate the imaging of the document into electronic form and shall retain the original endorsed document.

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APPENDIX OF FORMS.

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2. Instructions (Rule 1:15(c)).

Counsel for all parties, unless compliance is waived by the court, shall, two days before a civil jury trial date, submit to the court a copy of all instructions such counsel proposes to request - in electronic or paper form as directed by the court - and noting thereon the authority or authorities relied upon for such instructions. Counsel may be required to exchange copies of proposed instructions. This rule shall not preclude the offering of additional instructions at the trial.

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**PART ONE A
FOREIGN ATTORNEYS**

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APPENDIX OF FORMS.

[Note: *the following form may be submitted electronically pursuant to Rule 1:17 and related provisions of Virginia law.*]

Form 1. Application to Appear Pro Hac Vice Before A Virginia Tribunal.

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PART TWO A

APPEALS PURSUANT TO THE ADMINISTRATIVE PROCESS ACT

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Rule 2A:3. Record on Appeal.

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(d) Upon the adoption of standards for the preparation of electronic or digital records for use in appeals, records under this Rule shall comply with such standards.

(e) In the event the agency secretary determines that the record is so voluminous that its certification and filing pursuant to part (b) of this Rule would be unduly burdensome upon the agency or upon the clerk of the court, the agency may, prior to and in lieu of filing the entire record, move the court for leave to file an index to such record. A party shall have the opportunity to respond to the agency's motion within 10 days of filing the motion. Thereafter, if the court grants the agency's motion, the record, or such parts thereof as the parties may agree upon or as the court may determine, shall be filed in the form of a joint appendix or in

such other form as the court may direct. The agency shall nevertheless retain the entire record and make it available to the parties on reasonable request during the pendency of the appeal.

Rule 2A:4. Petition for Appeal.

(a) Within 30 days after the filing of the notice of appeal, the appellant shall file a petition for appeal with the clerk of the circuit court named in the first notice of appeal to be filed. Such filing shall include within such 30-day period both the payment of all fees and the taking of all steps provided in Rule 3:2, 3:3 and 3:4 to cause a copy of the petition for appeal to be served (as in a civil action) on the agency secretary and on every other party. The petition may be filed electronically as provided under Rule 1:17.

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**PART THREE
PRACTICE AND PROCEDURE IN CIVIL ACTIONS**

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Rule 3:3. Filing of Pleadings; Return of Certain Writs.

(a) *Filing Generally.* The clerk shall receive and file all pleadings when tendered, without order of the court. The clerk shall note and attest the date of filing thereon. In an Electronically Filed Case, the procedures of Rule 1:17 shall be applicable to the notation by the clerk of the date of filing. Any controversy over whether a party who has filed a pleading has a right to file it shall be decided by the court.

(b) *Electronic Filing.* In any circuit court which has established an electronic filing system pursuant to Rule 1:17:

(1) Any civil proceeding may be designated as an Electronically Filed Case upon consent of all parties in the case.

(2) Except where service and/or filing of an original paper document is expressly required by these rules, all pleadings, motions, notices and other filings in an Electronically Filed Case shall be formatted, served and filed electronically as specified in the requirements and procedures of Rule 1:17; provided, however, that when any document listed below is filed in the case, the filing party shall notify the clerk of court that the original document must be retained.

(i) Any pleading or affidavit required by statute or rule to be sworn, verified or certified as provided in Rule 1:17(d)(5).

(ii) Any last will and testament or other testamentary document, whether or not it is holographic.

(iii) Any contract or deed.

(iv) Any prenuptial agreement or written settlement agreement, including any property settlement agreement.

(v) Any check or other negotiable instrument.

(vi) Any handwritten statement, waiver, or consent by a defendant or witness in a criminal proceeding.

(vii) Any form signed by a defendant in a criminal proceeding, including any typed statements or a guilty plea form.

(viii) Any document that cannot be converted into an electronic document in such a way as to produce a clear and readable image.

(c) *Return of writs.* No writ shall be returnable more than 90 days after its date unless a longer period is provided by statute.

Rule 3:4. Copies of Complaint.

(a) *Copies for Service.* Except in cases where service is waived pursuant to Code § 8.01-286.1, the plaintiff shall furnish the clerk when the complaint is filed with as many paper copies thereof as there are defendants upon whom it is to be served.

(b) *Exhibits.* It is not required that physical copies of exhibits filed with the complaint be furnished or served. Unless an individual case is exempted by order of the court for good cause shown, an electronic or digitally imaged copy of all exhibits that are incorporated by reference in the pleading shall be filed with the complaint. Upon the adoption of standards for the preparation of electronic or digital records for use in appeals, exhibits under this Rule shall comply with such standards.

(c) *Additional copies.* A deficiency in the number of copies of the complaint shall not affect the pendency of the action. If the plaintiff fails to furnish the required number of copies, the clerk shall request that additional copies be furnished as needed, and if the plaintiff fails to do so promptly, the clerk shall bring the fact to the attention of the judge, who shall notify the plaintiff's counsel, or the plaintiff personally if no counsel has appeared for plaintiff, to furnish them by a specified date. If the required copies are not furnished on or before that date, the court may enter an order dismissing the suit.

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Rule 3:18. General Provisions as to Pleadings.

(a) *Pleadings.* All motions in writing, including a motion for a bill of particulars and a motion to dismiss, whether filed in paper document format or as electronic or digitally imaged filings, are pleadings.

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(e) *Separate or combined filings.* Answers, counterclaims, cross-claims, pleas, demurrers, affirmative defenses and motions may all be included in the same filing if they are separately identified in both the caption and the body of the filing.

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Rule 3:21. Jury Trial of Right.

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(b) *Demand.* Any party may demand a trial by jury of any issue triable of right by a jury in the complaint or by (1) serving upon other parties a demand therefore in writing at any time after the commencement of the action and not later than 10 days after the service of the last pleading directed to the issue, and (2) filing the demand with the trial court. Such demand may be endorsed upon a pleading of the party. In an Electronically Filed Case, endorsement of such demand may be made as provided in Rule 1:17. The court may set a final date for service of jury demands. Leave to file amended pleadings shall not extend the time for serving and filing a jury demand unless the order granting leave to amend expressly so states.

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Rule 3:23. Use of and Proceedings Before a Commissioner in Chancery.

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(d) The commissioner shall prepare a report stating his findings of fact and conclusions of law with respect to the matters

submitted by the decree of reference. The commissioner shall file the report, together with all exhibits admitted in evidence and a transcript of the proceedings and of the testimony, with the clerk of the court. In an Electronically Filed Case, filing as required in this Rule shall be in accord with the requirements of Rule 1:17. The commissioner shall mail or deliver to counsel of record and to parties not represented by counsel, using the last address shown in the record, written notice of the filing of the report. Provided, however, that in divorce cases a copy of the report shall accompany the notice. Provided, further, that no such notice or copy shall be given parties who have not appeared in the proceedings.

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PART THREE A
CRIMINAL PRACTICE AND PROCEDURE

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Rule 3A:2. Purpose and Interpretation; Definitions.

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(7) Writings or memoranda under these Rules, and any required signatures or sworn verifications, shall be valid in the form of electronic files or digital images as provided in Rule 1:17.

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Rule 3A:9. Pleadings and Motions for Trial; Defenses and

Objections.

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(c) *Time of Filing Notice or Making Motion.* A motion referred to in subparagraph (b) (1) shall be filed or made before a plea is entered and, in a circuit court, at least 7 days before the day fixed for trial, or, if the motion raises speedy trial or Double Jeopardy grounds as specified in Code § 19.2-266.2(A)(ii), at such time prior to trial as the grounds for the motion or objection shall arise, whichever occurs last. A copy of such motion shall, at the time of filing, be submitted to the judge of the circuit court who will hear the case, if known.

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Rule 3A:21. Service and Filing of Papers.

(a) *Copies of Written Motions to Be Furnished.* All written motions and notices not required to be served as process shall be served otherwise on each counsel of record by delivering or mailing a copy to him on or before the day of filing. In any case where electronic service and filing is permitted under Rule 1:17, delivery of an electronic copy or digital image of a document shall satisfy this requirement. At the foot of such motions and notices shall be appended either acceptance of service or a certificate of counsel that copies were served as this Rule requires, showing the date of delivery or mailing.

(b) *Filing.* Motions, notices and other items required to be served shall be filed with the clerk.

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Rule 3A:23. Electronic Filing

In any circuit court which has established an electronic filing system for criminal cases pursuant to Rule 1:17:

(a) Any criminal proceeding may be designated as an Electronically Filed Case upon consent of the Commonwealth and all defendants in the case.

(b) Except where service and/or filing of an original paper document is expressly required by these rules, all pleadings, motions, notices and other instruments in an Electronically Filed Case shall be formatted, served and filed as specified in the requirements and procedures of Rule 1:17; provided, however, that when any document listed below is filed in the case, the filing party shall notify the clerk of court that the original document must be retained.

(1) Any pleading or affidavit required by statute or rule to be sworn, verified or certified as provided in Rule 1:17(e)(5).

(2) Any check or other negotiable instrument.

(3) Any handwritten statement, waiver, or consent by a defendant or witness in a criminal proceeding.

(4) Any form signed by a defendant in a criminal proceeding, including any typed statements or a guilty plea form.

(5) Any document that cannot be converted into an electronic document in such a way as to produce a clear and readable image.

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PART FOUR

PRETRIAL PROCEDURES, DEPOSITIONS AND PRODUCTION AT TRIAL

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Rule 4:5. Depositions Upon Oral Examination.

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(f) Certification and Filing by Officer; Exhibits; Copies; Notice of Filing.

(1) The officer shall prepare an electronic or digitally imaged copy of the deposition transcript, including signatures and any changes as provided in subsection (e) of this Rule, and shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. In a divorce or annulment case, the officer shall then promptly file the electronic or digitally imaged deposition in the office of the clerk, notifying all other parties of such action. In all other cases, the officer shall then lodge the deposition with the attorney for the party who initiated the taking of the deposition, notifying the clerk and all parties of such action. Depositions taken pursuant to this Rule or Rule 4:6 (except depositions taken in divorce and annulment cases) shall not be filed with the clerk until the court so directs, either on its own initiative or upon the request of any party prior to or during the trial. Any such filing shall be made electronically unless otherwise ordered by the judge. Documents and things produced for inspection during the examination of the witness, shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party, except that (A) the person producing the materials may

substitute copies to be marked for identification, if he affords to all parties fair opportunity to verify the copies by comparison with the originals, and (B) if the person producing the materials requests their return, the officer shall mark them, give each party an opportunity to inspect and copy them, and return them to the person producing them, and the materials may then be used in the same manner as if annexed to and returned with the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the court, pending final disposition of the case.

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Rule 4:6. Depositions Upon Written Questions.

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(b) *Officer to Take Responses and Prepare Record.* A copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by Rule 4:5(c), (e), and (f), to take the testimony of the witness in response to the questions and to prepare, certify, and file the electronic or digitally imaged deposition or lodge the deposition with the attorney for the party who initiated the taking of the deposition, attaching thereto the copy of the notice and the questions received.

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Rule 4:7. Use of Depositions in Court Proceedings.

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(b) *Form of Presentation; Objections to Admissibility.* A party may offer deposition testimony pursuant to this Rule in stenographic or nonstenographic form. Except as otherwise directed by the court, if all or part of a deposition is offered the offering party shall provide the court with a transcript of the portions so offered in either printed form or in electronic or digitally imaged form.

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Rule 4:8. Interrogatories to Parties.

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(c) *Filing.*

(1) Interrogatories and answers or objections thereto shall not be filed unless the court directs such filing on its own initiative or upon the request of any party prior to or during the trial.

(2) When the propriety or sufficiency of any interrogatory, answer or objection, or the service thereof, is challenged, or any other issue concerning such discovery is presented to the court for decision, copies of the relevant items, including any applicable certificates of service, shall be made available to the court by counsel.

(3) In an Electronically Filed Case, submission of interrogatories, answers, objections and certificates of service as provided in subdivisions (c)(1) and (c)(2) of this Rule shall be

made by filing an electronic or digitally imaged copy thereof, unless the court directs otherwise.

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Rule 4:10. Physical and Mental Examination of Persons.

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(c) Report of Examiner.

(1) A written report of the examination shall be made by the examiner to the court and filed with the clerk thereof before the trial and a copy furnished to each party. The report shall be detailed, setting out the findings of the examiner, including results of all tests made, diagnosis and conclusions, together with like reports of all earlier examinations of the same condition. In an Electronically Filed Case, the report of examination shall be filed in electronic or digital image form as provided in Rule 1:17.

(2) The written report of the examination so filed with the clerk may be read into evidence if offered by the party who submitted to the examination. A party examined who takes the deposition of any examiner who shall have conducted an examination ordered pursuant to this Rule, waives any privilege that might have asserted in that action or in any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine the party in respect of the same mental or physical condition.

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Rule 4:11. Requests for Admission.

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(c) *Filing*. Except as provided in Rules 3:3 and 1:17, requests for admissions and answers or objections shall be served and filed as provided in Rule 4:8.

(d) *Part of Record*. Only such requests for admissions and the answers thereto as are offered in evidence shall become a part of the record.

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Rule 4:13. Pretrial Procedure; Formulating Issues.

The court may in its discretion direct the attorneys for the parties to appear before it for a conference to consider:

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(8) issues relating to the preservation of potentially discoverable information, including electronically stored information and information that may be located in sources that are believed not reasonably accessible because to undue burden or cost;

(9) provisions for disclosure or discovery of electronically stored information;

(10) any agreements the parties reach for asserting claims of privilege or of protection as trial-preparation material after production;

(11) any provisions that will aid in the use of electronically stored or digitally imaged documents in the trial of the action; and

(12) Such other matters as may aid in the disposition of

the action.

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Rule 4:15. Motions Practice.

All civil case motions in circuit court shall be scheduled and heard using the following procedures:

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(b) *Notice* -- Reasonable notice of the presentation of a motion shall be served on all counsel of record. Absent leave of court, and except as provided in paragraph (c) of this Rule, reasonable notice shall be in writing and served at least seven days before the hearing. Counsel of record shall make a reasonable effort to confer before giving notice of a motion to resolve the subject of the motion and to determine a mutually agreeable hearing date and time. The notice shall be accompanied by a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action. In an Electronically Filed Case, the notice provisions of this paragraph and the filing and service requirements of paragraph (c) of this Rule shall be accomplished in accord with Rule 1:17.

(c) *Filing and Service of Briefs* -- Counsel of record may elect or the court may require the parties to file briefs in support of or in opposition to a motion. Any such briefs should be filed with the court and served on all counsel of record sufficiently before the hearing to allow consideration of the issues involved. Absent leave of court, if a brief in support of a motion is five or fewer pages in length, the required notice and the brief shall be filed

and served at least 14 days before the hearing and any brief in opposition to the motion shall be filed and served at least seven days before the hearing. If a brief will be more than five pages in length, an alternative hearing date, notice requirement, and briefing schedule may be determined by the court or its designee. Absent leave of court, the length of a brief shall not exceed 20 pages double spaced

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PART SEVEN A
GENERAL DISTRICT COURTS - IN GENERAL

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Rule 7A:7. Filing Format and Procedure

(a) Except as provided in subdivision (c) of this Rule and in Rule 1:17 pertaining to Electronically Filed Cases,

(1) All pleadings, motions, briefs and all other documents filed in any clerk's office in any proceeding pursuant to the Rules or statutes shall be 8-1/2 by 11 inches in size. All typed material shall be double spaced except for quotations.

(2) Subdivision (a)(1) of this Rule shall not apply to tables, charts, plats, photographs, and other material that cannot be reasonably reproduced on paper of that size.

(b) No paper shall be refused for failure to comply with the provisions of this Rule, but the clerk or judge may require that the paper be redone in compliance with this Rule and substituted for the paper initially filed. Counsel shall certify that the substituted paper is identical in content to the paper initially filed.

(c) *Electronic Filing.* In any general district court which has established an electronic filing system pursuant to Rule 1:17:

(1) Any proceeding may be designated as an Electronically

Filed Case upon consent of all parties in the case.

(2) Except where service and/or filing of an original paper document is expressly required by these rules, all pleadings, motions, notices and other instruments in an Electronically Filed Case shall be formatted, served and filed as specified in the requirements and procedures of Rule 1:17; provided, however, that when any document listed below is filed in the case, the filing party shall notify the clerk of court that the original document must be retained.

(i) Any pleading or affidavit required by statute or rule to be sworn, verified or certified as provided in Rule 1:17(e)(5).

(ii) Any contract or deed.

(iii) Any prenuptial agreement or written settlement agreement, including any property settlement agreement.

(iv) Any check or other negotiable instrument.

(v) Any handwritten statement, waiver, or consent by a defendant or witness in a criminal proceeding.

(vi) Any form signed by a defendant in a criminal proceeding, including any typed statements or a guilty plea form.

(vii) Any document that cannot be converted into an electronic document in such a way as to produce a clear and readable image.

* * *

Rule 7A:11. Endorsements.

Drafts of orders shall be endorsed by counsel of record, or reasonable notice of the time and place of presenting such drafts together with copies thereof shall be served by delivering, dispatching by commercial delivery service, transmitting by

facsimile or mailing to all counsel of record who have not endorsed them. Compliance with this rule and with Rule 7A:10 may be modified or dispensed with by the court in its discretion. In an Electronically Filed Case, endorsement and specification of any objections to the draft order shall be accomplished as provided in Rule 1:17.

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PART SEVEN B
GENERAL DISTRICT COURTS - CIVIL

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Rule 7B:6. Verification.

If a statute requires a pleading to be sworn to, and it is not, or requires a pleading to be accompanied by an affidavit, and it is not, but contains all the allegations required, objection on either ground must be made within seven days after the pleading is filed by a motion to strike; otherwise the objection is waived. At any time before the court passes on the motion or within such time thereafter as the court may prescribe, the pleading may be sworn to or the affidavit filed. In an Electronically Filed Case, verification shall be subject to the provisions of Rule 1:17.

* * *

Rule 7B:11. Motions to Transfer.

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(1) If the motion is granted, the Clerk shall transmit the files in accordance with such order and shall send a copy of the

letter of transmittal or order of transfer to all parties along with information as to any costs awarded under § 8.01-266; or

* * *

PART SEVEN C

GENERAL DISTRICT COURTS - CRIMINAL AND TRAFFIC

* * *

Rule 7C:7. Service and Filing.

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(b) Filing. Pleadings, motions, notices, and other materials required to be served shall be filed with the clerk. In an Electronically Filed Case, the provisions of Rule 1:17 shall be applicable.

PART EIGHT

JUVENILE AND DOMESTIC RELATIONS DISTRICT COURTS

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Rule 8:7. Format for Filing.

(a) Except as provided in Rule 8:8(f) and Rule 1:17 pertaining to Electronically Filed Cases,

(1) All pleadings, motions, briefs and all other documents filed in any clerk's office in any proceeding pursuant to the Rules or statutes shall be 8-1/2 by 11 inches in size. All typed material shall be double spaced except for quotations.

(2) Subdivision (a)(1) of this Rule shall not apply to

tables, charts, plats, photographs, and other material that cannot be reasonably reproduced on paper of that size.

(b) No paper shall be refused for failure to comply with the provisions of this Rule, but the clerk or judge may require that the paper be redone in compliance with this Rule and substituted for the paper initially filed. Counsel shall certify that the substituted paper is identical in content to the paper initially filed.

Rule 8:8. Pleadings and Filing.

* * *

(e) *Copies of Pleadings to be Furnished.* Except as provided in subdivision (f) of this Rule, all pleadings not otherwise required to be served shall be served on each counsel of record by delivering, dispatching by commercial delivery service, transmitting by facsimile or mailing a copy to each on or before the day of filing. At the foot of such pleadings shall be appended either acceptances of service or a certificate that copies were served as this Rule requires, showing the date of delivery, dispatching, transmitting or mailing.

(f) *Electronic Filing.* In any juvenile and domestic relations district court which has established an electronic filing system pursuant to Rule 1:17:

(1) Any proceeding may be designated as an Electronically Filed Case upon consent of all parties in the case.

(2) Except where service and/or filing of an original paper document is expressly required by these rules, all pleadings, motions, notices and other instruments in an Electronically Filed Case shall be formatted, served and filed as specified in the

requirements and procedures of Rule 1:17; provided, however, that when any document listed below is filed in the case, the filing party shall notify the clerk of court that the original document must be retained.

(i) Any pleading or affidavit required by statute or rule to be sworn, verified or certified as provided in Rule 1:17(e)(5).

(ii) Any contract or deed.

(iii) Any prenuptial agreement or written settlement agreement, including any property settlement agreement.

(iv) Any check or other negotiable instrument.

(v) Any handwritten statement, waiver, or consent by a defendant or witness in a criminal proceeding.

(vi) Any form signed by a defendant in a criminal proceeding, including any typed statements or a guilty plea form.

(vii) Any document that cannot be converted into an electronic document in such a way as to produce a clear and readable image.

* * *

Rule 8:19. Endorsements of Orders.

Drafts of orders prepared by counsel of record shall be endorsed by all counsel of record, or reasonable notice of the time and place of presenting such drafts together with copies thereof shall be served by delivering, dispatching by commercial delivery service, transmitting by facsimile or mailing to all counsel of record who have not endorsed them. Compliance with this Rule may be modified or dispensed with by the court in its discretion. In an Electronically Filed Case, endorsement and specification of any

objections to the draft order shall be accomplished as provided in Rule 1:17.

A Copy,

Teste:

Clerk