

SUPERIOR COURT RULES OF PRACTICE

I. GENERAL RULES

Rule 1.1. Adoption of Rules — Amendments. — These rules were adopted on January 10, 1966, and may be amended from time to time by the Superior Court (with approval of the Supreme Court). These rules may be cited as Superior Court R.P. These rules were last amended on November 5, 2014.

Rule 1.2. Powers of Administrative Judge. — Notwithstanding anything in these Rules of Practice to the contrary, the presiding justice of the Superior Court as the administrative judge, by virtue of G.L. 1956 § 8-2-4, shall continue to have and exercise the powers therein given to him or her.

Rule 1.3. Court Hours. — Except on holidays the Superior Court shall ordinarily sit from 9:30 a.m. to 12:30 p.m. and from 2:00 p.m. to 4:30 p.m., Mondays through Fridays, unless the presiding justice shall order otherwise.

Rule 1.4. Agreements. — All agreements of parties or attorneys touching the business of the court shall be in writing, unless orally made or assented to by them in the presence of the court when disposing of such business, or they will be considered of no validity.

Rule 1.5. Withdrawal and Excuse of Attorneys. — (a) *Withdrawal of Attorney.* No attorney appearing in any case will be allowed to withdraw without the consent of the court. Except where another attorney enters an appearance at the time of such withdrawal, all withdrawals shall be upon motion with reasonable notice to the party represented. No such motion shall be granted unless the attorney who seeks to withdraw shall file with the clerk the last known address of the attorney's client, or the client files his or her address, and in either situation the address which is filed shall be the official address to which notices may be sent.

(b) *Excuse From Attendance.* An attorney's request to be excused from attendance from the Superior Court shall be submitted by email to the presiding justice at SCExcusal@courts.ri.gov and shall be served in accordance with Rule 5 of the Superior Rules of Civil Procedure upon the attorney of record of the adverse party for all matters the moving attorney is scheduled to attend including every trial, hearing, motion, calendar call, status conference, and other proceeding preliminary to trial on the merits.

The submission shall contain the following information:

(1) The period of time for which the excuse is requested;

(2) The reason upon which the request is based. Where the submission is based upon a matter which is personal or confidential in nature, the movant may arrange to meet with the presiding justice privately prior to the filing of the motion;

(3) The file number and caption of every cause assigned during the period for which the excuse is sought and the name of the attorney of record for each of the adverse parties to that cause;

(4) Where the cause assigned is a trial on the merits, the movant shall obtain approval to be excused for the period requested from the justice in charge of the trial calendar;

(5) Where the cause assigned is a proceeding preliminary to a trial on the merits, the movant shall state whether substitute counsel will attend at that proceeding or whether the proceeding will be continued with the agreement of the attorney of record for the adverse party and, where the justice so requires, with the agreement of the justice before whom the proceeding is scheduled;

(6) Where the movant has no cause assigned during the period for which the excuse is sought, a representation of that fact shall be made; and

(7) A certification that the movant has served a copy of the submission on each attorney of record for each of the adverse parties whose cause is assigned during the period for which the excuse is sought.

An attorney of record for an adverse party who objects to the motion shall file an objection by email to the presiding justice at SCExcusal@courts.ri.gov immediately upon receipt of the submission. The presiding justice may conduct a hearing on the objection.

(c) *Illness or Absence of Attorney.* In case of sudden illness of an attorney, or the attorney's absence from court from some other imperative and unforeseen cause, the court shall take such action, without notice, as shall appear reasonable in the circumstances.

Rule 1.6. Case Filings. — Every memorandum of law filed with the court shall be printed or typewritten, shall be distinctly legible, shall be signed by the attorney presenting it in accordance with Art. X, Rule 7 of the Rhode Island Supreme Court Rules Governing Electronic Filing, and shall contain:

(1) A brief and concise statement of the case;

(2) The specific questions raised duly numbered; and

(3) The point made, together with the authorities relied on in support thereof.

In cases where it may be necessary for the court to go into an examination of record evidence, each party shall briefly specify in his or her brief the leading facts which the party deems established by the evidence, with a reference to the pages where the evidence of such facts may be found. The format of the case filings shall be in accordance with the Superior Court's Electronic Filing System Guidelines.

Rule 1.7. Probate Appeals. — Probate appeals shall be entitled by the appellant's attorney under the name of appellant against appellee and not against probate courts. The reasons of appeal shall contain the names and residences of all the appellants and the names and residences of the adversary parties who entered appearances in the probate court.

Rule 1.8. [Reserved.]

Rule 1.9. Cancellation of Court Sessions — Adverse Weather Conditions. — In the event of a public announcement made prior to the beginning of court sessions that because of adverse weather conditions there shall be no sessions of the Superior Court, or that the Superior Court shall be closed for the day, such announcement shall mean that all trials (jury and non-jury), all hearings, and all conferences shall be cancelled. Said trials, hearings, and conferences shall receive priority the next court day.

Rule 1.10. Unauthorized Video and Audio Recording Prohibited

(a) All media coverage of judicial proceedings is permitted in accordance with Article VII of the Supreme Court Rules.

(b) Except as provided in subsection (a), no person shall engage in any tape recording, video, or audio taping or photographing of any proceeding of the Superior Court including any conference, formal, or informal, conducted by any justice or magistrate of the Superior Court without the express authorization of the trial justice or magistrate and the assent of all parties.

II. CALENDARS

Rule 2.1. No Assignment of Cases on Certain Days.

Cases will not be assigned for hearing upon any legal holiday, Good Friday, or upon any day within the period from December 19 to New Year's Day, each date inclusive. Matters deemed by the court to be urgent may be heard on such days.

Rule 2.2. Administration of Court Calendars — Kent, Newport, and Washington Counties.

In Kent, Newport, and Washington Counties there shall be a criminal calendar and a civil calendar. These calendars shall be administrated in accordance with this rule, subject to amendment by an administrative order of the presiding justice.

(a) *The Criminal Calendar.* The justice or magistrate assigned to the criminal calendar shall qualify and receive the report of the grand jury, dispose of motions related to criminal proceedings, preside at trials of indictments, informations and

complaints, assign motions for the reduction of sentence for disposition by the justice or magistrate who presided at the trial of the movant, dispose of such motions in cases wherein the trial justice or magistrate is no longer a member of the court and perform such other duties as in his or her judgment may be necessary for the complete administration of the calendar.

(b) *The Civil Calendar.* The justice or magistrate assigned to the civil calendar shall qualify the petit jury, dispose of matters on the miscellaneous calendar, which calendar comprises all civil motions and those civil matters which are more specifically described as formal and special cause matters, preside at trials of civil causes, dispose of applications for post-conviction relief in any case wherein the trial justice or magistrate is no longer a member of the court, assign such applications for dispositions by the justice or magistrate who presided at the trial of the applicant, dispose of appeals taken under the administrative procedures and zoning enabling acts, decide petitions for extraordinary writs and perform such other duties as in his or her judgment may be necessary for the complete administration of the calendar.

Rule 2.3. Administration of Calendars — Providence/Bristol County.

In Providence/Bristol County there shall be criminal and civil calendars presided over by a designated assignment justice or magistrate. The process and requirements for the Providence/Bristol County calendars shall be set forth in an administrative order issued either by the presiding justice or the designated assignment justice or magistrate assigned to the respective calendar. The calendars in Providence/Bristol County, which are subject to change, are as follow: Criminal calendar; civil calendar; daily criminal calendar; formal and special cause calendar; motion calendar; pre-arraignment calendar; pre-trial calendar; business calendar; fines, costs, and/or restitution calendar; sexual violent predator calendar; adult drug calendar; gun calendar; and domestic violence calendar.

Rule 2.4. Civil Trials — Status Conference.

The process and requirements for status conferences shall be set forth in an administrative order issued either by the presiding justice or the justice or magistrate assigned to the calendar.

Rule 2.5. Motion Days for Kent, Newport, and Washington Counties.

The Superior Court shall be in session for the purpose of hearing motions in the various counties as follows:

(a) In Kent County, on the second and fourth Monday of each and every month, excepting the last Monday in December.

(b) In Washington County, on the third Monday of each and every month, excepting the month of July and the third Monday of December which falls between December 18 and December 22.

(c) In Newport County, on the first Monday of each and every month.

Whenever a motion day falls on a legal holiday wherein the court is not in session, motions will be heard on the next business day of the court.

Rule 2.6. Court Sessions.

All Superior Court criminal and civil calendars for all counties shall be called by the justice or magistrate assigned at 9:30 a.m.

Rule 2.7. District Court Civil Appeals.

(a) In and for all counties, District Court civil appeals, which are not subject to arbitration, shall be disposed of as follows:

(1) An appeal from a judgment of the District Court, if the case be for tenement let, or held at will or by sufferance, or pertaining to a lease of land, shall be assigned to the trial calendar by the clerk of the county immediately upon certification of the appeal to the Superior Court.

(2) Except as in this Rule of Practice otherwise provided, an appeal from a judgment of the District Court shall be assigned to the trial calendar by the clerk of the county immediately upon the expiration of ten (10) days after certification of the appeal to the Superior Court.

(3) No appeal from the District Court, including an appeal which is subject to arbitration, shall be assigned for trial in accordance with this order unless the certification of the appeal to the Superior Court discloses that the judgment appealed from has been entered in accordance with the provisions of District Court Civil Rule 58(a).

(4) An appeal from a judgment entered by agreement or submission in accordance with the provisions of District Court Civil Rule 58(b) shall be assigned by the clerk only after a motion to assign has been granted.

(b) District Court civil appeals which are subject to arbitration shall be disposed of as follows:

(1) On the first business day of each week, the clerk shall transmit to the Arbitration Office the Superior Court case number and the caption of every case which he or she has received in the course of the prior week as an appeal from the District Court which is subject to Court-Annexed Arbitration as provided by Rule 1(a) of the Rules and Regulations Governing the Arbitration of Civil Actions in Superior Court.

(2) Immediately upon the receipt of such list of cases from the clerk, the Arbitration Office shall designate all of the cases on the list for arbitration as required

by Rule 7 of the Rules and Regulations Governing the Arbitration of Civil Actions in Superior Court.

Rule 2.8. Non-jury Matters.

(a) *Non-jury Civil Trials.* No cause assigned to the civil trial calendar which is to be tried on the merits to the court without the intervention of a jury shall proceed to trial or disposition until all of the parties to the cause shall have provided the court with a pre-trial memorandum. The pre-trial memorandum shall be filed not later than the Tuesday preceding the Friday on which the case is scheduled for a trial calendar call.

(1) The process and requirements for pre-trial memorandum shall be set forth in an administrative order issued either by the presiding justice or the justice or magistrate assigned to the calendar.

(2) If the court has not rendered its findings of fact and conclusions of law in accordance with Super.R.Civ.P. 52(a):

(A) Within ninety (90) days following the close of all the testimony, or;

(B) In the event that the court requires the parties to submit either proposed findings of fact and conclusions of law in accordance with said rule or a memorandum of law or both, within ninety (90) days following the receipt by the court of the last of such submission, or;

(C) If the court permits or requires oral argument, within ninety (90) days following the completion of oral argument, a notice that the court has not rendered its decision in the cause may be forwarded to the presiding justice by a single document signed by counsel for each party to the cause.

(b) *Administrative Appeals.* No cause requiring the court to review the decision of a state or municipal agency shall be assigned to a justice or magistrate unless the assignment to the justice is accompanied contemporaneously by the memorandum of law of each party and the entire record of the proceedings before the state or municipal agency.

If the court has not rendered its judgment affirming, reversing, or modifying the decision under review:

(1) Within ninety (90) days following the assignment, or;

(2) In the event that the court requires the parties to submit proposed findings of fact and conclusions of law in accordance with Super.R.Civ.P. 52(a), within ninety (90) days following the receipt by the court of the last of such submissions, or;

(3) If the court permits or requires oral argument, within ninety (90) days following the completion of oral argument,

a notice that the court has not rendered its judgment in the cause may be forwarded to the presiding justice by a single document signed by counsel for each party to the cause.

Rule 2.9. Proceeding on Appeal from a Magistrate.

(a) *Applicability.* An appeal of the decision of any magistrate of the Superior Court shall be filed in accordance with the provisions of this rule.

(b) *Appeal — How Taken.* An appeal shall be taken by filing a notice of appeal in the Superior Court Clerk's Office for the county in which the cause before the magistrate was heard. No filing fee shall be required. The party or parties taking the appeal shall order and pay for a transcript of the proceedings thereon.

(c) *Contents of Notice of Appeal.* The notice of appeal shall specify the party or parties taking the appeal and shall designate the judgment, order, or decree or part thereof appealed from and the basis for the appeal.

(d) *Service of the Notice of Appeal.* The Superior Court shall serve notice of the filing of a notice of appeal to the attorney of record of each party or self-represented litigant other than the appellant. The Superior Court shall note on each copy served the date on which the notice of appeal was filed.

(e) *Appeal — When Taken.* The notice of appeal required shall be filed within twenty (20) days of the date of the entry of the judgment, order, or decree appealed from.

(f) *Record on Appeal.* The original papers and exhibits filed with the Superior Court, the transcript of the proceedings, and the docket entries shall constitute the record on appeal.

(g) *Assignment.* The Superior Court justice assigned to the Formal and Special Cause Calendar in Providence/Bristol County or the Superior Court justice assigned to the civil calendar in Kent, Newport, or Washington Counties shall assign the matter for hearing within sixty (60) days after the appellant files the required transcript with the court. If the transcript is not filed within sixty (60) days of the entry of the judgment, order, or decree, except for good cause shown, the appeal shall be dismissed.

(h) *Review.* The Superior Court justice shall make a de novo determination of those portions to which the appeal is directed and may accept, reject, or modify, in whole or in part, the judgment, order, or decree of the magistrate. The justice, however, need not formally conduct a new hearing and may consider the record developed before the magistrate, making his or her own determination based on that record whether there is competent evidence upon which the magistrate's judgment, order, or decree rests. The justice may also receive further evidence, recall witnesses or recommit the matter with instructions.

III. RECORDS

Rule 3.1. Docketing.

All cases shall be docketed and numbered consecutively in the classes to which they respectively belong. The classes will include the following: Civil Actions; Indictments and Informations; Criminal Appeals; Appeals other than Criminal; Miscellaneous Petitions and Proceedings.

Rule 3.2. [Reserved.]

Rule 3.3. Matters Not for Publication.

Matters of record which are sealed by the court pursuant to statute or court order shall not be furnished by the court for publication or given out for inspection to anyone except as provided by statute, by these Rules of Practice as specified herein, or by order of the court.

Whenever a child victim is identified in any child molestation sexual assault case, a dual filing system shall be established for that case. During the prosecution and disposition of such a case, a “public file” and a “confidential court file” shall be maintained. The public file shall contain the charging document (indictment, information, or application filed in accordance with the Rhode Island post-conviction relief statute, G.L. § 1956 10-9.1-1) with the name and identifying information of the child victim redacted. “Redaction” is defined as the obliteration of victim-identifying information in the documents placed in the public file. The name and address of the victim shall be redacted along with any familial-identifying information such as the relationship, if any, between the child victim and the accused. A fictitious name may be substituted for the victim's actual name.

Such redaction or substitution shall be carried out by the party placing the material on file, e.g. the Office of the Attorney General in criminal cases and the plaintiff or other party placing material on file in related civil suits. When applicable, a party submitting material that identifies a victim shall submit two (2) versions of each document to be placed on file: one version from which all victim-identifying information has been redacted or made fictitious, to be placed in the public file; a second version of the same document, unredacted, to be placed in the confidential court file. The foregoing does not preclude the submission, when appropriate, of two (2) identical copies of a non-victim-identifying document, one of which is to be placed in the public file and one in the confidential court file.

The public file shall not include in any form, redacted or otherwise, victim-specific documents relating to the child victim that are otherwise confidential in accordance with statute or policy. Such excluded documents include, but are not limited to, school records, medical records, reports from the Department of Children,

Youth and Families, reports or records of counselors, therapists, and social workers, or other similar victim-specific documents which are privileged by law or custom. All other documents, not victim-specific, shall be placed in the public file, in redacted form as necessary in accordance with this rule.

Rule 3.4. [Reserved.]

Rule 3.5. Transcripts.

Policies and procedures regarding the ordering, payment, and delivery of transcripts shall be promulgated by the Supreme Court Finance and Budget Office of the Administrative Office of State Courts. The most current version of the transcript policy and procedure is located on the Judiciary's website at www.courts.ri.gov under the heading of Quick Links on the home page.

Each court reporter of the court and court reporter for occasional service shall file in the Office of the Court Administrator on the 15th day of each month a complete list of all cases from any county ordered transcribed and uncompleted by said court reporter, with the date of order and extension or extensions allowed by the court.

Rule 3.6. Removal of Inactive Cases from Files.

The clerks for the several counties are hereby authorized from time to time in their discretion to remove from the active files in the files in their offices and to transfer to inactive files to be maintained elsewhere under their direction in the county courthouses or at such other place as may be authorized by the court, the papers in all cases which have been pending upon any docket for five (5) years or longer and which appear to have become inactive. The papers in any case so transferred may be at any time upon motion of a party or in the clerk's discretion returned to the active file. Upon the implementation of electronic filing, court records shall be maintained in accordance with the Rhode Island Judiciary Records Retention Schedule.

Rule 3.7. [Reserved.]

Rule 3.8. Indictments.

Prior to electronic filing, original indictments are to be kept in the file folders of each case. Upon implementation of electronic filing, the electronic filer must retain the original version of a document, attachment, or exhibit that was filed electronically.

Rule 3.9. [Reserved.]