

1. **Statute of Limitations** - Two years for negligence actions resulting in bodily injuries, five years for negligence actions resulting in property damage. After filing the plaintiff has one additional year to effectuate service.
2. **Answer** - Complaints must be answered within 21 days from the date of service.
3. **Punitive Damages** - Plaintiff must show, by “the greater weight of the evidence”, “actual malice” (i.e., a subjective intent to harm) or circumstances amounting to a willful and wanton disregard of the plaintiff’s rights. Punitive damages must be specifically plead in the complaint and are capped at \$350,000.
4. **Contributory Negligence** - Virginia is a “contributory negligence” state (any negligence on the part of the plaintiff bars him from recovery). There is no provision for comparative negligence.
5. **Assumption of the Risk** - Recognized and acts as a complete bar to recovery.
6. **Dram Shop Act** - Not recognized.
7. **Negligent Infliction of Emotional Distress** - Not recognized as an independent cause of action.
8. **Collateral Source Rule** - Strictly enforced.
9. **Statutory Caps on Damages** -Punitive Damages capped at \$350,000 (see above); there are no other caps on damages in tort cases, except those arising from medical malpractice. The amount of the medical malpractice cap is determined by the date of the act. For acts of malpractice which occurred on or before July 1, 2012, the maximum total recovery is \$2,000,000, which increases by \$50,000 on July 1, every year thereafter. The July 1, 2030 increase shall be the final annual increase and shall be \$3,000,000.00.
10. **Mandatory Liability Coverage** - Minimum Auto Liability Limits: \$25,000 per person; \$50,000 per occurrence; and \$20,000 for property damage.
11. **Personal Injury Protection/Medical Payments** - The optional coverage offered in Virginia is MEDPAY and is not subrogable.
12. **Uninsured Motorist Coverage** - Mandatory, and must be at least minimum mandatory requirements. In the case of an underinsured motorist, the injured party may settle with the tortfeasors carrier and execute a full release of all claims in favor of the tortfeasor and his/her carrier with out prejudice to the underinsured motorist benefits/claim (UIM). The tortfeasor must also sign the release issued to the injured party and the release must contain a notice to the tortfeasor regarding his/her obligation to cooperate with the UIM carrier in defending the claim against him/her. As long as the tortfeasor cooperates in the defense of any claim filed against him/her, the UIM carrier has no right of subrogation. If the tortfeasor fails to cooperate, the right of subrogation by the UIM carrier will be reinstated.
13. **Offer of Judgment** - Not recognized in Virginia.
14. **Non-suit** - The plaintiff is allowed one automatic voluntary dismissal without prejudice. Non-suit can be taken at any time up until the judge or jury renders a verdict. The plaintiff is allowed to re-file his action within 6 months from the date of the non-suit or within the balance of the statute of limitations period, whichever is longer. The ability to re-file the action within 6 months applies even if it is beyond the statute of limitations.
15. **Joint and Several Liability** - Applies in tort actions with no comparative negligence being assessed between the joint tortfeasors.
16. **Seat Belt Rule** - A plaintiff’s failure to wear a seat belt is strictly inadmissible in a civil trial.
17. **Courts** - Virginia’s General District Courts (no jury trials and very limited discovery-subpoena) has jurisdiction for all matters up to \$25,000. Trial courts for larger claims are “Circuit Courts” for each county. Appeals in civil actions are made to the Supreme Court of Virginia by writ of cert.
18. **Death Cases** - Virginia recognizes separate survival (by the estate) and wrongful death (by eligible beneficiaries) actions. There are no caps on damages.

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