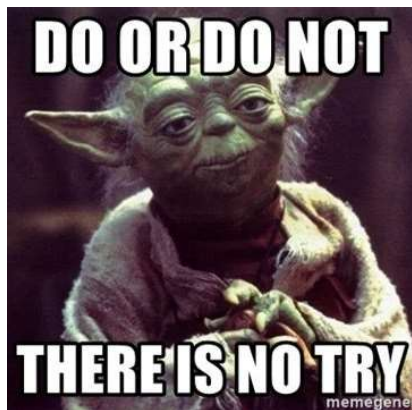


Navigating your way
through General District
Courts in Virginia

General District Court

1



Before the First Return . . .

- Where is the case filed?
- Status of Service?
- Communicate to the Insured and Adjuster
- File Notice of Appearance

2

At the First Return

- What to expect
- What you need to ask for
- What you need to do immediately following the First Return

3

Tip!

Consider whether you need to file a counterclaim or crossclaim

Request Pleadings if either are necessary

4

While Waiting on the Bill of Particulars

Subpoena Power:

- Plaintiff
- Providers
- Involved Insurers
- Police

Meet with your client
to discuss accident

5

GDC Client Meeting

- Tripartate Relationship
 - Scope of Representation
 - Duty to Cooperate
 - Reservation of Rights Letter?
- Facts of Accident
- Explain GDC Process



6

Tip!


Mark the outside of
your file when
defending under a
Reservation of Rights.

7

Bill of
Particulars

- Rule 7B:2
 - The judge of any General District Court may require the plaintiff to file and serve a written bill of particulars and the defendant to file and serve a written grounds of defense within the periods of time specified in the order so requiring; the failure of either party to comply may be grounds for awarding summary judgment in favor of the adverse party. **Upon trial, the judge may exclude evidence to matters not described in any such pleadings.**

8



Answer and Grounds of Defense

7B:2 Applies to YOU TO!

9

Tip!

If you have a liability defense or are aware of facts you intend to rely upon SPELL IT OUT in your Answer

10

Communicating to Adjusters



- Know your reporting requirements, they may be different than Circuit Court
- Pick up the phone. Written reports may not be required, but the adjuster will want to know your evaluation.
- Learn their view of the case.
- Consider budget.

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Evaluating a GDC Case

- It can be hard. You don't have much information
- Work with what you have:
 - Liability Defense: How does your client present? Do they remember details of the scene? Can you corroborate the testimony with property damage?
 - Plaintiff's Credibility: Inconsistent statements in records? Minor damage and significant complaints? Statements at the scene or to the carrier?

12

Three Weeks Before Trial

- Call the adjuster to discuss interest in settlement
- Identify exhibits. Consider if you need to obtain affidavits for medical records or property damage. Discuss stipulations.
- Subpoena Witnesses
- Set up a meeting/call with client
- Consider Objections to Plaintiff's Evidence
- Prepare Trial Notebook

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What goes in a GDC Trial Notebook?



Bill of Particulars and Answer



Pending Motions



Plaintiff's Exhibits

Medical Bills
Medical Records
Photographs



Defendant's Exhibits

Google maps/photos
Helpful Records



Case Law



Witness Examination Outlines

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Cases to Know

McMunn v. Tatum, 236 Va. 558 (1989) (regarding medical records and bills)

Averett v. Shircliff, 218 Va. 202 (1977) (discussing the proper measure property damages)

Haynes v. Glenn, 197 Va. 745 (1956) (finding plaintiff can testify as to value of her own property)


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Day of Trial


- Get there early and ask client and witnesses to arrive 30 minutes before trial. (Provide your cell phone number)
- Locate the courtroom
- Always Bring: Trial Notebook, 3 copies of exhibits, Virginia Rules, 3 copies of cases.
- Consider white board or large pad to depict how accident took place

16

You Won!



Call the adjuster and tell them how great you are. Celebrate the wins.




Explain Appeal Process: Must notice within 10 days and perfect within 30. Monitor for the notice of appeal.



If an appeal is perfected there will be a de novo trial in Circuit Court. Speak to your mentor.


17

You Lost ☹️



Call the adjuster and discuss options:

- Pay the judgment
- Notice appeal and plan to perfect appeal
- Notice appeal to leverage negotiating paying something less than the judgment



If paying the judgment

- Confirm payment instructions and provide carrier with W9
- Make sure any liens are addressed
- Request Notice of Satisfaction and confirm it is filed.

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Settlement

- Confirm settlement in writing. Make a point to state that the payment of funds is conditioned upon a release of all claims and the dismissal of the case with prejudice.
- Draft the Release and Order of Dismissal. Send to Plaintiff's counsel and request payment instructions. Request payment from insurer upon receipt of payment instructions.
- Provide payment to Plaintiff once they send you a signed Release.
- If pro se – consider setting up an in person exchange of release and check.