

Virginia Personal Injury Law

Protecting Yourself Before and After an Accident

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November 21, 2026

Welcome

- ▶ Virginia personal injury law
- ▶ Know your rights
- ▶ Protect your health and your evidence

General legal information only. Not legal advice about any individual matter.

One Ordinary Evening

- ▶ A parent leaves a school event
- ▶ A collision happens in seconds
- ▶ Evidence begins disappearing
- ▶ Small decisions become important

The Five Questions in Every Injury Case

- ▶ Who owed a duty?
- ▶ What did that person do wrong?
- ▶ Did it cause the injury?
- ▶ What harm can be proved?
- ▶ Is there a practical source of recovery?

Negligence in Plain Language

- ▶ Duty
- ▶ Failure to use reasonable care
- ▶ Causation
- ▶ Legally recoverable damages

Where Personal Injury Claims Arise

- ▶ Motor vehicles, trucks, rideshare, pedestrians, and bicycles
- ▶ Unsafe property, negligent security, and animal injuries
- ▶ Defective products and dangerous equipment
- ▶ Medical, professional, and institutional negligence
- ▶ Work-related third-party injuries, government liability, and wrongful death

The Plaintiff's Perspective

- ▶ Identify every responsible party
- ▶ Prove duty, breach, causation, and damages
- ▶ Preserve evidence and meet deadlines
- ▶ Answer defenses with facts
- ▶ Measure the realistic net recovery

The Defendant's Perspective

- ▶ Report the claim and preserve evidence
- ▶ Test duty, breach, causation, and damages
- ▶ Identify plaintiff negligence and other responsible parties
- ▶ Protect insurance and defense rights
- ▶ Evaluate resolution and trial risk

Protection Begins Before an Accident

- ▶ Buy more than minimum limits
- ▶ Protect your assets and your family
- ▶ Match strong UM and UIM protection
- ▶ Add an umbrella when appropriate
- ▶ Review coverage every year

The First Ten Minutes After an Accident

- ▶ Safety first
- ▶ Call for help
- ▶ Report accurately
- ▶ Identify people and vehicles
- ▶ Photograph before conditions change

Medical Care and the Record of Injury

- ▶ Seek appropriate care
- ▶ Describe symptoms completely
- ▶ Follow reasonable instructions
- ▶ Keep appointments and records
- ▶ Do not exaggerate

Preserve Evidence Systematically

- ▶ Scene and injury photographs
- ▶ Witness information
- ▶ Video and electronic data
- ▶ Medical and employment records
- ▶ Damaged property

Communication Traps

- ▶ Opposing adjuster statements
- ▶ Broad medical authorizations
- ▶ Early releases
- ▶ Social media
- ▶ Informal admissions

Virginia Contributory Negligence

- ▶ Virginia does not compare ordinary fault
- ▶ Plaintiff negligence that proximately contributes may bar recovery
- ▶ Facts and words matter
- ▶ Exceptions require legal analysis

Deadlines Can End a Valid Claim

- ▶ General personal injury period two years
- ▶ Wrongful death period generally two years from death
- ▶ Local government notice may be six months
- ▶ Commonwealth notice may be one year
- ▶ Exceptions are technical

Insurance Is Financial Protection

- ▶ Minimum limits are a floor
- ▶ Liability protects what you own and earn
- ▶ UM and UIM protect you and your family
- ▶ Umbrella coverage adds another layer
- ▶ Buy as much sound coverage as you can reasonably afford

Automobile Insurance Types and Events

- ▶ Liability injuries or property damage you cause
- ▶ UM and UIM uninsured underinsured or hit and run driver
- ▶ Medical expense benefits covered treatment regardless of fault
- ▶ Collision crash or rollover damage to your vehicle
- ▶ Comprehensive theft fire vandalism hail glass or falling objects

Home Renters Business and Umbrella Coverage

- ▶ Homeowners or renters liability falls dog bites and accidental harm
- ▶ Medical payments to others limited no fault expenses
- ▶ Business coverage customer premises operations and products
- ▶ Workers compensation employee job injuries
- ▶ Umbrella or excess severe losses above underlying limits
- ▶ Special event coverage temporary gatherings and activities

What Damages May Be Considered

- ▶ Injury and effect on health
- ▶ Past and future pain and mental anguish
- ▶ Disfigurement and inconvenience
- ▶ Medical expenses
- ▶ Lost earnings and earning capacity
- ▶ Property damage

From Accident to Resolution

- ▶ Intake and conflict check
- ▶ Investigation and preservation
- ▶ Medical course and damages proof
- ▶ Demand and negotiation
- ▶ Suit, discovery, trial, or settlement

Virginia Courts The Big Picture

- ▶ Trial courts decide facts
- ▶ Appellate courts review the record
- ▶ District courts are courts not of record
- ▶ Circuit courts are courts of record

General District Court

- ▶ Local limited jurisdiction trial court
- ▶ A judge decides the civil case
- ▶ Personal injury and wrongful death claims up to \$50,000
- ▶ Appeal to Circuit Court may produce a new trial

Circuit Court

- ▶ Virginia's general jurisdiction trial court
- ▶ Claims above \$50,000 ordinarily begin here
- ▶ Judge or civil jury
- ▶ Pleadings, discovery, motions, and trial

Court of Appeals of Virginia

- ▶ Intermediate appellate court
- ▶ Most final Circuit Court civil decisions may be appealed as of right
- ▶ Reviews the trial court record
- ▶ Briefs, legal issues, and possible oral argument

Supreme Court of Virginia

- ▶ Virginia's court of last resort
- ▶ Primarily reviews lower court decisions
- ▶ Most civil review is discretionary
- ▶ Decisions guide courts across Virginia

When an Injury Case May Be in Federal Court

- ▶ Federal courts have limited jurisdiction
- ▶ Diversity may apply when citizenship is completely different
- ▶ Amount in controversy must exceed \$75,000
- ▶ Federal questions and federal defendants create other paths

United States District Courts in Virginia

- ▶ Federal trial courts
- ▶ Eastern and Western Districts of Virginia
- ▶ Judges and civil juries
- ▶ Federal procedure with applicable substantive law

United States Court of Appeals for the Fourth Circuit

- ▶ Federal intermediate appellate court
- ▶ Reviews federal cases from Virginia
- ▶ No new trial
- ▶ Briefs, record, legal standards, and oral argument

Supreme Court of the United States

- ▶ Nation's highest court
- ▶ Review is usually discretionary
- ▶ Few civil cases are accepted
- ▶ Federal questions of broad importance

When to Consult a Lawyer

- ▶ Serious or lasting injury
- ▶ Disputed fault
- ▶ Government or commercial defendant
- ▶ Multiple policies or parties
- ▶ Child, incapacity, or death
- ▶ Deadline or coverage uncertainty

Case Exercise The Intersection

- ▶ Driver A proceeds straight
- ▶ Driver B turns left
- ▶ Both claim a green signal
- ▶ Passenger is injured
- ▶ Nearby businesses have cameras

Twenty Five Ways to Protect Yourself Insurance First

- ▶ 1 Buy automobile liability limits well above the legal minimum when reasonably affordable.
- ▶ 2 Buy strong uninsured and underinsured motorist coverage to protect yourself and your household.
- ▶ 3 Consider automobile medical expense benefits for prompt covered medical costs regardless of fault.
- ▶ 4 Carry collision and comprehensive coverage when you could not comfortably absorb the loss of the vehicle.
- ▶ 5 Consider a personal umbrella or excess policy for severe claims above underlying limits.
- ▶ 6 Maintain homeowners or renters liability coverage even when you do not own the building.
- ▶ 7 Tell the insurer about household drivers, business use, rideshare or delivery work, rentals, animals, pools, boats, and other material risks.
- ▶ 8 Review policies, limits, deductibles, exclusions, endorsements, and declarations every year and after major life changes.

Twenty Five Ways to Protect Yourself At the Event

- ▶ 9 Protect life and safety first and call 911 when anyone may be injured or the scene remains dangerous.
- ▶ 10 Report observable facts accurately without guessing, arguing, or assigning percentages of fault.
- ▶ 11 Photograph the full scene, vehicles, conditions, traffic controls, hazards, injuries, and property damage.
- ▶ 12 Identify witnesses and obtain reliable telephone and email information before they leave.
- ▶ 13 Preserve surveillance video, vehicle data, photographs, messages, and other electronic evidence promptly.
- ▶ 14 Exchange necessary information without making casual admissions or signing documents at the scene.
- ▶ 15 Obtain appropriate medical evaluation and describe the timing and extent of symptoms honestly.
- ▶ 16 Give prompt notice to every potentially applicable insurer and preserve proof of the notice.

Twenty Five Ways to Protect Yourself After the Event

- ▶ 17 Keep one organized file containing reports, policies, letters, medical records, bills, receipts, wage information, and photographs.
- ▶ 18 Follow reasonable medical advice and explain unavoidable gaps or missed appointments accurately.
- ▶ 19 Disclose prior injuries and medical conditions truthfully when the information is properly requested.
- ▶ 20 Do not discuss the accident, injuries, activities, or claim on social media.
- ▶ 21 Do not give an unnecessary recorded statement or sign a broad authorization, assignment, or release without understanding it.
- ▶ 22 Preserve damaged products, clothing, helmets, child restraints, vehicles, and other physical evidence without altering them.
- ▶ 23 Calendar filing deadlines and special government notice periods immediately; do not rely on a general two year rule.
- ▶ 24 Identify all possible insurance, reimbursement claims, liens, responsible parties, employers, owners, and contractors.
- ▶ 25 Seek qualified legal advice early when injuries persist, fault is disputed, coverage is inadequate, or the matter involves a child, death, government, business, or serious loss.

Questions and Closing

- ▶ General questions are welcome
- ▶ Protect private information
- ▶ Every case depends on its facts
- ▶ Thank you

Should I speak to the other driver's insurance company?

You may provide basic identifying information, but a detailed or recorded statement can affect the claim. The other carrier does not represent you. Obtain individualized advice before giving a detailed statement, particularly when fault or injury is disputed. Cooperate appropriately with your own insurer under your policy.

What if I felt fine at the scene but hurt the next day?

Symptoms may evolve, but delayed complaints can also create factual disputes. Seek appropriate medical evaluation when symptoms arise, describe the timing honestly, and do not claim that symptoms existed earlier if they did not.

Does the police officer decide who wins the civil case?

No. A report and officer testimony may be important, but civil liability is ultimately determined from admissible evidence under the governing law. The officer may not have witnessed the collision.

Can I recover if I was partly at fault?

Virginia's general contributory negligence rule can bar recovery if the plaintiff's negligence was a proximate cause. The legal effect depends on facts, causation, and possible exceptions; do not decide the issue from an informal percentage assigned at the scene.

How long do I have?

Virginia generally uses a two year period for personal injury actions, but some notice periods are six months or one year and other claims have different rules. Accrual and tolling are technical. Prompt legal review is safer than calculating a deadline from a general presentation.

How much is my case worth?

Value depends on liability, causation, injury, treatment, prognosis, wage loss, daily-life effect, credibility, available insurance, liens, venue, and litigation risk. There is no reliable universal multiplier.

What if the at-fault driver has no insurance?

Uninsured motorist coverage may apply under an applicable policy. Policies covering the occupied vehicle, the injured person, or qualifying household relationships may require review under Virginia's statutory priority rules.

How much automobile insurance should I buy?

The statutory minimum is a legal floor, not a measure of adequate protection. Buy substantially higher liability and uninsured or underinsured motorist limits when reasonably affordable, based on your assets, income, household risks, and potential for a severe loss. Ask a licensed insurance professional to compare limits, premiums, exclusions, and umbrella requirements in writing.

What does an umbrella policy do?

A personal umbrella or excess policy may add liability limits above specified automobile, homeowners, or renters coverage. It usually requires minimum underlying limits and does not automatically cover every excluded activity. Confirm whether the umbrella covers the vehicles, residences, household members, rentals, watercraft, and other exposures that matter to you.

Does homeowners or renters insurance cover every accident at home?

No. These policies commonly provide personal liability and medical payments coverage for certain accidental injuries, but exclusions and limitations may apply to automobiles, intentional harm, business activity, animals, pools, vacant property, rentals, and other risks. The actual policy controls.

Should I use my health insurance?

Needed care should not be delayed while liability is disputed. Health coverage is commonly used, but reimbursement rights, provider balances, medical expense benefits, workers' compensation, Medicare, or Medicaid may affect final distribution.

Can I post that I was in an accident?

The safest practice is not to discuss the accident, injuries, treatment, activities, or claim on social media. Do not delete potentially relevant existing material after a dispute arises without legal advice.

Which Virginia court hears a personal injury case?

The answer depends on the amount claimed, the parties, venue, and other jurisdictional rules. General District Court may hear personal injury and wrongful death claims up to \$50,000. Circuit Court shares jurisdiction over part of that range and ordinarily has exclusive original jurisdiction over claims exceeding \$50,000.

Will a jury hear the case?

General District Court civil cases are decided by a judge. In Circuit Court, most civil claims for money may be tried by a judge or, when properly requested, by a jury. Many filed cases resolve before trial.

Does an appeal mean a completely new trial?

An appeal from General District Court to Circuit Court is heard de novo, meaning from the beginning. An appeal from Circuit Court ordinarily involves review of the existing record and preserved legal issues rather than a new presentation of all evidence.

Why would a Virginia accident case be in federal court?

Federal courts require an independent basis for jurisdiction. A case may qualify when there is complete diversity of citizenship and the amount in controversy exceeds \$75,000, when a federal question is presented, or when another federal jurisdiction statute applies. A qualifying defendant may sometimes remove a case from state court under federal law.

What should I do if I am sued after an accident?

Do not ignore the papers or contact the plaintiff directly to argue the case. Promptly notify every potentially applicable insurer, preserve the suit papers and evidence, record the date and method of service, and obtain qualified advice. Response deadlines and coverage duties can be short.

Do I need a lawyer for a small claim?

Not every minor claim requires representation. A consultation becomes more important when the injury persists, fault is disputed, coverage is unclear, a government or commercial party is involved, or a deadline may apply.

What if English is not my first language?

Ask for a qualified interpreter when accuracy matters. Do not sign a document you cannot read or fully understand. A family member may help with logistics, but legal and medical interpretation should be accurate and confidential.

Does immigration status prevent an injured person from asking for legal advice?

An injured person should obtain confidential advice rather than assume that status defeats all rights. The interaction among civil damages, work authorization, public benefits, and immigration law can be complex and requires individualized analysis by qualified counsel.

Thank You

Questions are welcome. Please keep them general and protect private information.

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