



Virginia Law Quick Reference Guide 2020-2021

www.kpmlaw.com

Circuit Court Answer Due	21 days from service
Contributory/Comparative Negligence	Contributory negligence (no comparative). Any negligence on the part of the plaintiff which substantially contributed to the accident will bar the plaintiff's recovery.
Minimum Liability Limits	25/50/20. Va. Code §46.2-472.
BI Statute of Limitations	2 years. Va. Code §8.01-243(A).
PD Statute of Limitations	5 years (note that parents' claim for medical expenses for injured child is a property damage claim). Va. Code §8.01-243(B).
UM/UIM Statute of Limitation	Not time barred.
Minor Child Statute of Limitations	2 years past 18th birthday for personal injury (BI or UM). Va. Code §8.01-229.
Defamation Statute of Limitations	1 year. Va. Code §8.01-247.1.
Breach of Contract Statute of limitations	Signed Written: 5 years Unsigned Written: 3 years Oral: 3 years Va. Code §8.01-246
Statute of Repose	5-year statute of repose limited to damages arising out of the defective or unsafe condition of improvements to real property. Va. Code §8.01-250.
Husband/Wife Sue in Tort?	No spousal immunity for motor vehicle accident cases. Note that there is also no cause of action for loss of consortium.
Child Sue Parents?	No parental immunity for motor vehicle accidents.
PIP/Med Stacking	Yes. No PIP in Virginia but you can stack med-pay for up to four vehicles under one policy.
UM Stacking	Inter-policy stacking allowed. No intra-policy stacking.
UIM Stacking	Inter-policy stacking allowed. No intra-policy stacking.
BI Punitive Damages Covered	Yes.
UM Punitive Damages Covered	Yes.
Punitive Damages Cap	\$350,000. Va Code §8.01-38.1.
General Damages Cap	No – except for medical malpractice claims. Va. Code §8.01-581.15.
Pre-judgment Interest	Currently 6%. Jury decides date upon which interest will begin to run and on what amount of award. Va. Code §8.01-382.

Post-judgment Interest	Currently 6%. Va. Code §6.2-302.
Courts	<u>General District</u> : Court not of record. Exclusive jurisdiction for claims not exceeding \$4,500 exclusive of interest and attorneys' fees. Concurrent jurisdiction with Circuit Court up to \$25,000. Either party has automatic right to appeal to Circuit Court. <u>Circuit</u> : Exclusive jurisdiction for claims exceeding \$25,000. Party entitled to trial by jury. <u>Supreme Court</u> : Highest court hearing appeals from Circuit Court.
Joint & Several Liability	Yes. Each tortfeasor responsible for 100% of judgment amount but can seek contribution against co-tortfeasor. If one tortfeasor settles with plaintiff, no contribution allowed although remaining tortfeasor gets a credit for amount already paid. Va. Code §8.01-35.1.
Last Clear Chance/Assumption of the Risk	Yes, but instruction rarely given.
No Fault	No.
UM/UIM Limits Offset	Offsets may be available. The potential amount and order of priority for offsets available to UM/UIM policies is set forth in Va. Code §39.2-2206.
Minor Child Negligence	Under 7: incapable of negligence. Ages 7-14: rebuttable presumption of no negligence. Over 14: presumed capable of negligence
BAC Level	.08 for criminal charge – but .15 for civil punitive damages by statute. Va. Code §8.01-44.5.
Subro Med Pay	No. Va. Code §38.2-2209.
Seatbelt Defense	No. Va. Code §46.2-1094(D).
Reduce for Medical Write-Offs	Yes for Med-Pay Claims. No for Liability Claims.
Collision Damage Waiver Owed for Rental	If necessary for a rental, most likely. Va. Code §59.1-207.31.
Transportation Expense: Total Theft	Reasonable time to replace the vehicle.
Physical Contact Enforced	To recover under UM against John Doe when there is no contact between the vehicles, claimant must report accident promptly to either (i) the insurer or (ii) a law-enforcement officer having jurisdiction in the county or city in which the accident occurred. Va. Code §38.2-2206(D).
Reservation of Rights	Notice must be given within 45 days from either discovery of breach of policy conditions or notice of the claim (whichever is later). Va. Code §38.2-2226.

One Firm. Your Firm.

CENTRAL VIRGINIA

901 Moorefield Park Drive
Suite 200
Richmond, VA 23236
p 804.320.6300

NORTHERN VIRGINIA

3950 University Drive
Suite 204
Fairfax, VA 22030
p 703.691.3331

EASTERN VIRGINIA

555 East Main Street
Suite 1200
Norfolk, VA 23510
p 757.623.4500

WESTERN VIRGINIA

2840 Electric Road
Suite 111
Roanoke, VA 24018
p 540.776.3583

www.kpmlaw.com