

CHAPTER 1 - OVERVIEW 1-1

I. CIVIL LAW - GENERALLY 1-1

II. CIVIL ACTIONS – LAW AND CHANCERY NO LONGER DISTINGUISHED 1-1

 A. Common Law And Statute Law 1-2

 B. Equity 1-2

 C. Effect Of Distinction Between Law And Equity 1-3

III. COURT ORGANIZATION AND JURISDICTIONAL DISTINCTIONS 1-4

 A. Supreme Court Of Virginia 1-4

 B. Court Of Appeals Of Virginia 1-4

 C. Circuit Courts 1-5

 D. District Courts 1-6

IV. PARTICIPANTS IN A CIVIL ACTION 1-7

 A. Plaintiff 1-7

 B. Defendant 1-7

 C. Attorneys 1-7

 D. Pro Se Litigants 1-8

 E. Guardian Ad Litem 1-8

 F. Commissioner In Chancery 1-8

 G. Judges 1-8

 H. Clerk Of Circuit Court 1-8

 I. Juries 1-9

 J. Condemnation Commissioners 1-9

 K. Special Commissioners 1-9

 L. Registered Agents 1-9

 M. Executors/Administrators 1-9

 N. Sheriff 1-9

 O. Judge Pro Tempore 1-10

 P. Mediators 1-10

 Q. Police Officers 1-10

V. GENERAL DESCRIPTION OF CIVIL CASE PLEADINGS 1-10

VI. LEGAL CAUSES OF ACTION (FORMERLY KNOWN AS ACTIONS AT LAW) 1-10

 A. Complaint 1-12

 B. Bills Of Particulars 1-13

 C. Demurrers 1-13

CIRCUIT COURT CLERK'S MANUAL - CIVIL

TABLE OF CONTENTS

PAGE ii

D. Venue 1-13
E. Answer 1-14
F. Cross-Demands 1-14

VII. SUITS IN EQUITY 1-15

VIII. SOURCES OF LAW APPLICABLE TO CIVIL CASES 1-17

A. Statutory Law 1-17
B. Acts Of The General Assembly 1-18
C. Case Reporters 1-18
D. Opinions Of The Attorney General 1-18
E. Other Reference Works 1-18

CHAPTER 2 - CASE INITIATION..... 2-1

I. INTRODUCTION 2-1

II. ACKNOWLEDGING RECEIPT OF CASE PAPERS 2-1

III. CASE NUMBERING 2-3

IV. INDEXING 2-4

V. PREPARATION OF CASE FILE 2-5

VI. ISSUANCE OF COURT PROCESS 2-5

A. General 2-5
B. Service Of Process 2-6
C. Acceptance/Waiver Of Service 2-6
D. Order Of Publication 2-7
E. Certified Mailing 2-7

VII. SERVICE UPON A CORPORATION OR STATE CORPORATION
COMMISSION 2-7

VIII. SERVICE ON SECRETARY OF THE COMMONWEALTH 2-9

IX. SERVICE UPON THE COMMISSIONER OF DMV 2-10

X. ATTORNEY-ISSUED SUBPOENAS 2-10

XI. PRO SE CIVIL ACTIONS -PRO SE LITIGANTS 2-11

XII. VIRGINIA PRISONER LITIGATION REFORM ACT 2-12

CHAPTER 3 - CASEFLOW MANAGEMENT.....3-1

- I. DOCKET CALL 3-1
 - A. Docket Preparation..... 3-1
- II. CASEFLOW MANAGEMENT 3-3
 - A. Defining Delay 3-3
 - B. Considerations In Developing Caseflow Management Prevention Efforts 3-4
 - C. Forming A Team..... 3-5
 - D. Steps Taken By The Court Or Team To Assess Delay 3-6
 - E. Developing Caseflow Management Programs..... 3-8
 - F. Examples Of Caseflow/Calendar Management Programs..... 3-9
- III. REQUESTS FOR SUBPOENAS, PRODUCTION OF DOCUMENTS, ETC. 3-10
 - A. Definitions..... 3-10
 - B. Subpoena..... 3-10
 - C. Subpoena Duces Tecum..... 3-12
 - D. Uniform Interstate Depositions And Discovery Act..... 3-16
- IV. JURY MANAGEMENT 3-17
 - A. Civil Jury Composition 3-17
 - B. Condemnation Juries..... 3-18
 - C. Creation Of The Master Jury List 3-19
 - D. Jury Orientation 3-27
 - E. Voir Dire 3-29
- V. MICROFILMING AND INDEXING ORDERS; ORDER BOOKS..... 3-29
 - A. Microfilming 3-29
 - B. Court Orders..... 3-30
 - C. Indexing Orders 3-31
 - D. Order Books And Other Information Found In The Clerk's Office..... 3-31
- VI. APPEALS 3-35
 - A. Court Of Appeals Of Virginia..... 3-35
 - B. Supreme Court Of Virginia..... 3-44

CHAPTER 4 - PRE-TRIAL..... 4-1

- I. PRETRIAL CONFERENCES 4-1
- II. HEARINGS ON MOTIONS 4-2

CIRCUIT COURT CLERK'S MANUAL - CIVIL

TABLE OF CONTENTS

PAGE iv

III. COMMISSIONER IN CHANCERY..... 4-2

IV. ALTERNATIVE DISPUTE RESOLUTION 4-3

 A. Referral 4-4

 B. Cases For Mediation 4-5

 C. Process 4-6

V. APPOINTMENT OF GUARDIAN AD LITEM..... 4-8

 A. Generally..... 4-8

 B. Specific Appointments..... 4-9

 C. Recoup Fees..... 4-11

 D. Nonsuit, Dismiss Action With(Out) Prejudice 4-12

 E. Rules Of The Supreme Court Of Virginia 4-13

VI. LOCAL RULES OF COURT (RULE 1:15)..... 4-28

VII. PURGING INACTIVE CASES FROM THE DOCKET 4-29

 A. One Year 4-30

 B. Two Years..... 4-30

 C. Three Years..... 4-31

CHAPTER 5 - TRIAL OF THE ACTION/POST-TRIAL 5-1

I. BENCH TRIAL 5-1

II. JURY TRIAL..... 5-4

 A. Right To Trial By Jury..... 5-5

 B. Eligibility For And Exemption From Jury Service..... 5-6

 C. Selection Of Trial Jurors..... 5-8

 D. Conduct Of Jury Trial..... 5-10

 E. Juror Reimbursement..... 5-17

III. CLERK'S DUTIES IN THE COURTROOM..... 5-18

 A. The Court File..... 5-18

 B. Jury Trial..... 5-18

 C. Pre-Trial Motions..... 5-18

 D. Trial..... 5-18

 E. Trial Exhibits 5-18

 F. Post-Trial Motions 5-18

 G. Court Orders..... 5-19

 H. Post-Trial Matters 5-19

 I. Under Advisement Cases..... 5-19

CIRCUIT COURT CLERK'S MANUAL - CIVIL

TABLE OF CONTENTS

PAGE v

IV. POST-TRIAL MOTIONS..... 5-19

V. JUDGMENTS AND EXECUTIONS THEREON 5-20

VI. SEALING COURT RECORDS; CONFIDENTIALITY CONSIDERATIONS..... 5-20

 A. Sealed Records..... 5-20

 B. Confidentiality Considerations 5-29

VII. RECORDS MANAGEMENT 5-36

 A. Statutory Recordkeeping Duties 5-36

 B. Creating A Records Management Program 5-38

 C. Dealing With Electronic Records 5-40

 D. Destroying Circuit Court Records 5-42

CHAPTER 6 - SUITS/ACTION TYPES (A-C) 6-1

I. ADMINISTRATIVE APPEAL (EMPLOYEE GRIEVANCE) 6-1

II. ADOPTION 6-2

III. ADOPTION-POST ADOPTION CONTACT AND COMMUNICATIONS 6-5

IV. ANIMAL VIOLATIONS..... 6-6

V. ANNEXATION 6-6

VI. APPEALS 6-9

 A. Civil Contempt From District Court..... 6-9

 B. Civil Proceedings From J&DR..... 6-11

 C. Decision From Board Of Zoning Appeals..... 6-17

 D. Decision Of ABC Board..... 6-19

 E. Decision Of Board Of Real Estate Review, (Board Of Assessors) And
 Equalization Board..... 6-21

 F. Decision Of Compensation Board Or Governing Body 6-23

 G. Decision Of Employment Commission 6-25

 H. Decision Of Local Governing Body (Historic Landmarks)..... 6-27

 I. Decision Of Marine Resources Commission..... 6-28

 J. Denial Of Authorization For Abortion From J&DR..... 6-29

 K. Denial Of Voter Registration..... 6-32

 L. General District Court Appeal 6-34

 M. Involuntary Commitment/Inpatient And Outpatient..... 6-36

 N. Isolation/Quarantine Order 6-38

 O. Probate – Not An Original Action 6-41

 P. Refusal To Take Blood Or Breath Test 6-42

 Q. Withdrawal Of Appeal From District Court..... 6-42

VII. APPOINTMENT 6-43

 A. Church Trustees And Fraternal Organizations Trustees 6-43

 B. Conservator Of The Peace/Special Enforcement Officer 6-45

 C. Guardian/Conservator 6-48

 D. Special Justice 6-48

 E. Standby Guardian/Standby Conservator 6-49

VIII. APPROVAL OF THE RIGHT TO BE ELIGIBLE TO REGISTER TO VOTE 6-49

IX. ATTACHMENTS 6-51

X. CHILD ABUSE OR NEGLECT – UNFOUNDED COMPLAINT 6-56

XI. CIVIL COMMITMENT FOR SEXUALLY VIOLENT PREDATORS..... 6-58

XII. CIVIL CONTEMPT 6-62

XIII. COMPLAINT – LEGAL CAUSE OF ACTION OR EQUITABLE ACTION 6-64

XIV. COMPROMISE SETTLEMENT 6-66

XV. CONDEMNATION/EMINENT DOMAIN/INVERSE CONDEMNATION
AND RELATED PROCEDURES 6-68

XVI. CONFESSION OF JUDGMENT 6-86

XVII. CONSOLIDATION OF COUNTIES 6-89

XVII. CONSTRUE WILL..... 6-91

XVIII. CONTRACTS 6-93

 A. Rescission Of Contract 6-93

 B. Seeking Damages & Performance 6-94

 C. Seeking Money Damages 6-95

 D. Seeking Specific Performance 6-96

XIX. CONVEY/ENCUMBER CHURCH PROPERTY..... 6-97

XX. COUNTERCLAIM 6-99

XXI. CROSS-CLAIM..... 6-101

CHAPTER 7 - SUITS/ACTION TYPES (D-J) 7-1

 I. DECLARATORY JUDGMENT 7-1

 II. DECLARE DEATH..... 7-2

| | | |
|-------|--|------|
| III. | DESTRUCTION OF UNEXECUTED FELONY AND MISDEMEANOR WARRANTS | 7-4 |
| IV. | DETINUE | 7-5 |
| V. | DIVORCE/ANNULMENT/AFFIRMATION | 7-10 |
| VI. | EJECTMENT | 7-17 |
| VII. | ELECTIONS | 7-20 |
| | A. Referendum Elections | 7-20 |
| | B. Special Elections (Constitutional Officers) | 7-22 |
| | C. Recount of Election | 7-24 |
| VIII. | ENFORCEMENTS | 7-24 |
| | A. Mechanic's Lien | 7-24 |
| | B. Vendor's Lien | 7-26 |
| IX. | ESCHEAT | 7-28 |
| X. | ESTABLISHMENTS | 7-29 |
| | A. Establish Property Line | 7-29 |
| | B. Establish Record Of Birth | 7-30 |
| | C. Establish Report Of Foreign Adoption | 7-32 |
| | D. Establish Residency - Eligibility For In-State Tuition | 7-34 |
| | E. Establish Right-Of-Way | 7-36 |
| | F. Establish/Impeach Will | 7-37 |
| XI. | EXPUNGEMENT | 7-38 |
| XII. | FORFEITURES | 7-43 |
| | A. Automobile (Illegal Drug Activity) | 7-43 |
| | B. Bail Bond | 7-44 |
| | C. Forfeiture Of Bail Bonds – Quick Reference Guide Bonds posted prior to 7/1/11. | 7-47 |
| | D. Quick Reference Guide To Bond Forfeiture – Bonds posted on or after 7/1/11 | 7-49 |
| | E. Beepers Or Similar Communication Device In Schools | 7-53 |
| | F. Contraband and Seized For ABC Violations | 7-54 |
| | G. Drug Cases | 7-56 |
| | H. Firearms - Possession Of Controlled Substances | 7-58 |
| | I. Plastic Firearms | 7-58 |
| | J. Profits From Crime | 7-59 |
| | K. Property Used in Connection with the Abduction of Children | 7-61 |

CIRCUIT COURT CLERK'S MANUAL - CIVIL

TABLE OF CONTENTS

PAGE viii

L. Weapons (Non-Drug-Related Activity)..... 7-62
M. Weapons Used In The Commission Of A Criminal Offense..... 7-63

XIII. FREEDOM OF INFORMATION 7-65

XIV. GARNISHMENT..... 7-66

XV. GUARDIANS/CONSERVATORS 7-70

 A. Guardian/Conservator Appointment..... 7-70
 B. Guardian/Conservator Appointment-Uniform Adult Guardianship and
 Protective Proceedings Act..... 7-74
 C. Guardian Of Minor – Appointment Of - Estate Filing 7-77
 D. Guardian Of Minor – Distribution From Estate..... 7-79
 E. Standby Guardian Conservator 7-81
 F. Transfer of Guardianship or Conservatorship-Uniform Adult Guardianship
 and Protective Proceedings Act 7-83

XVI. HABEAS CORPUS AD SUBJICIENDUM 7-85

XVII. INJUNCTION 7-88

XVIII. INTERDICTION 7-90

XIX. INTERPLEADER 7-91

XX. INTERVENER..... 7-92

XXI. ISOLATION/QUARANTINE 7-93

 A. Definitions..... 7-93

XXII. JUDGMENT LIEN (BILL TO ENFORCE)..... 7-96

XXIII. JUDICIAL REVIEWS 7-99

 A. DMV Revocation/Suspension of License..... 7-99
 B. Entry Onto School Property By Registered Sex Offender..... 7-100
 C. School Board Decision Regarding A Pupil 7-102

XXIV. JUVENILE & DOMESTIC RELATIONS COURT CASE MATRIX 7-103

CHAPTER 8 - SUITS/ACTION TYPES (L-W) 8-1

 I. LEVY/SEIZURE - (POST-JUDGMENT)..... 8-1

 II. MANDAMUS 8-5

CIRCUIT COURT CLERK'S MANUAL - CIVIL**TABLE OF CONTENTS****PAGE ix**

| | | |
|-------|--|------|
| III. | MEDICAL MALPRACTICE | 8-7 |
| IV. | NAME CHANGE | 8-9 |
| V. | PARTITION..... | 8-12 |
| VI. | <i>PRO HAC VICE</i> – WHEN OUT-OF-STATE LAWYER IS ALLOWED TO PARTICIPATE IN A VIRGINIA CASE..... | 8-14 |
| VII. | PROHIBITION | 8-15 |
| VIII. | PROTECTIVE ORDERS | 8-17 |
| | A. Appeal - Family Abuse | 8-17 |
| | B. Protective Order Emergency – Family Abuse – Pass-Through (No File Created)..... | 8-19 |
| | C. Protective Orders Of Family Abuse Where Divorce, Custody, Visitation Or Support Is Pending-Civil Or Juvenile (Where Custody/Visitation Appealed)..... | 8-23 |
| IX. | QUO WARRANTO..... | 8-24 |
| X. | RECEIVER (SPECIAL) | 8-27 |
| XI. | REFORMATION OF TRUST | 8-30 |
| XII. | REINSTATEMENTS | 8-31 |
| | A. Civil Case..... | 8-31 |
| | B. Driving Privileges | 8-32 |
| | C. Reinstatement Of Professional License | 8-34 |
| | D. Restoration Of Voting Rights | 8-36 |
| | E. Restore Driving Privileges (Third Offense Or Habitual Offender) | 8-38 |
| | F. Restore, Modify Or Terminate Guardian/Conservator | 8-40 |
| | G. Restore Rights To Possess Firearm..... | 8-43 |
| XIII. | RELIEF | 8-46 |
| | A. Legal Determination Of Paternity..... | 8-46 |
| | B. Re-Registration - Sexual Offender Registry | 8-47 |
| XIV. | REMOVALS..... | 8-49 |
| | A. Circuit To Federal Court..... | 8-49 |
| | B. Personal Representative/Trustee..... | 8-50 |
| | C. Name From Sexual Offender Register..... | 8-52 |
| XV. | RESTRICTED DRIVER’S LICENSE..... | 8-54 |

CIRCUIT COURT CLERK'S MANUAL - CIVIL

TABLE OF CONTENTS

PAGE x

A. Failure To Pay Fines And Costs 8-54
B. Conviction For Unauthorized Driving 8-55

XVI. REVOCATION OF LICENSE TO PRACTICE LAW 8-57

XVII. SELL 8-58
A. Land For Delinquent Taxes 8-58
B. Sell, Etc. Land Of Person Under A Disability 8-61

XVIII. SURCHARGE AND FALSIFY AN ACCOUNTING 8-62

XIX. SUSPENSION OF PROFESSIONAL LICENSE..... 8-65

XX. THIRD-PARTY PRACTICE..... 8-67

XXI. UNLAWFUL ENTRY AND DETAINER 8-68

XXII. WORKERS' COMPENSATION LIEN – ASCERTAIN AMOUNT 8-70

XXIII. WRIT OF CERTIORARI 8-71

XXIV. WRIT OF CORAM NOBIS/WRIT OF CORAM VOBIS..... 8-72

XXV. WRONGFUL DEATH/PERSONAL INJURY 8-73

CHAPTER 9 - MISCELLANEOUS MATTERS..... 9-1

I. CORRECTION OF ERRONEOUS OR IMPROPER ASSESSMENTS OF LOCAL LEVIES..... 9-1

II. CORRECTION OF ERRONEOUS OR IMPROPER ASSESSMENTS OF STATE TAX 9-2

III. CORRECT ORDERS - DEFAULT JUDGMENT/PRO CONFESSO 9-5
A. Amendment Of Final Decree, Etc. In Original Action 9-4
B. File A New Action To Amend, Etc. The First Case 9-4

IV. APPLICATION FOR CONCEALED HANDGUN PERMIT..... 9-5

V. RENEWAL OF CONCEALED HANDGUN PERMIT 9-9

VI. REPLACEMENT PERMIT FOR A CHANGE OF ADDRESS 9-9

VII. LOST OR REPLACEMENT PERMIT (NOT CHANGE OF ADDRESS) 9-10

VIII. DENIAL OF CONCEALED HANDGUN PERMIT - PETITION FOR REVIEW 9-10

CIRCUIT COURT CLERK'S MANUAL - CIVIL

TABLE OF CONTENTS

PAGE xi

IX. REVOCATION/SUSPENSION OF CONCEALED HANDGUN PERMIT 9-11

X. ADMINISTRATIVE IMPOUNDMENT OF MOTOR VEHICLES..... 9-12

XI. ADMINISTRATIVE SUSPENSION OF DRIVER’S LICENSE 9-13

XII. WORKERS’ COMPENSATION COMMISSION REFERRAL 9-13

XIII. GUARDIANSHIP FOR ENROLLING CHILD IN SCHOOL..... 9-14

XIV. PETITION BY LAW ENFORCEMENT OFFICER TO PROHIBIT
PUBLICATION OF INFORMATION 9-15

XV. INCOME DEDUCTION ORDER 9-15

 A. Income Deduction Orders 9-15

GLOSSARY..... Glossary-1

APPENDIX A - WORKSHEET FOR FILING CIVIL ACTIONS..... A-1

APPENDIX B - MISCELLANEOUS BOND FORMS..... B-1

I. PERFORMANCE BOND B-1

II. INJUNCTION BOND..... B-2

III. SPECIAL COMMISSIONER'S BOND..... B-3

IV. SPECIAL COMMISSIONER'S BOND – CLERK’S CERTIFICATE AND
NOTICE B-4

V. FORTHCOMING BOND [RELIEF FROM WRIT OF FIERI FACIAS]..... B-5

VI. FORTHCOMING BOND [THIRD-PARTY CLAIM TO PROPERTY LEVIED
ON]..... B-6

VII. FORTHCOMING BOND [INJUNCTION AGAINST REMOVAL OF
PROPERTY]..... B-7

VIII. INDEMNIFYING BOND [FIERI FACIAS, ATTACHMENT, DISTRESS]..... B-8

IX. INDEMNIFYING BOND [ACTION ON LOST EVIDENCE OF DEBT]..... B-9

X. BOND FOR COSTS B-10

APPENDIX C – FEE SCHEDULE C-1

APPENDIX D - MISCELLANEOUS ORDERS AND DECREES D-1

I. CLOSING OFFICE FOR GENERAL HOLIDAY D-1

II. CLOSING OFFICE FOR CHRISTMAS AND NEW YEAR’S..... D-2

III. CLOSING OFFICE - (BAD WEATHER, OFFICE CATASTROPHE, ETC.)..... D-3

IV. FOREIGN DEPOSITION ORDER D-4

V. IN FORMA PAUPERIS ORDER..... D-5

VI. ORDER TO OPEN SEALED RECORD..... D-6

VII. SERVICE OF PROCESS ORDER..... D-7

VIII. GARNISHMENT EXEMPTION ORDER..... D-8

IX. PETITION TO CELEBRATE RITES OF MATRIMONY D-9

X. ORDER TO CELEBRATE RITES OF MATRIMONY D-10

XI. ORDER TO CELEBRATE RITES OF MATRIMONY - LAYMAN D-11

XII. PETITION TO APPOINT CHURCH TRUSTEES D-12

XIII. ORDER OF APPOINTMENT OF CHURCH TRUSTEES D-13

XIV. ORDER FOR QUALIFICATION OF NOTARY PUBLIC D-14

XV. ORDER - CONCEALED WEAPON PERMIT..... D-14

XVI. ORDER - REAPPOINTMENT TO ELECTORAL BOARD..... D-15

XVII. PETITION - WRIT OF HABEAS CORPUS D-16

XVIII. ORDER - WRIT OF HABEAS CORPUS..... D-21

XIX. WRIT OF QUO WARRANTO..... D-22

APPENDIX E - RECORDS RETENTION AND DISPOSITION SCHEDULE..... E-1

APPENDIX F – MANUAL UPDATES.....F-1

INDEX..... Index-1