

# New Laws Affecting the Litigation Landscape in Virginia

By Annemarie DiNardo Cleary and Shannon A. Kapadia

The 2021 Virginia General Assembly session produced several new laws that will alter the civil litigation landscape in Virginia. Continue reading for important changes to jurisdictional limits, expansion of the appellate courts, limitations on the enforcement of judgments, and clarification of when certain personal injury claims accrue.

## **CHANGES TO JURISDICTIONAL LIMITS** (Effective July 1, 2021)

The jurisdictional limits of Virginia's general district courts will increase from \$25,000 to \$50,000 for actions involving a claim for personal injury under an amendment to [Virginia Code § 8.01-195.4](#). As a result, some cases that currently would be heard in circuit court may now be resolved in general district court where there is very limited discovery and no jury.

General district court decisions can be appealed to circuit court, where they are heard anew. Insurance companies, which were previously exempt from posting appeal bonds, will now be required to post an appeal bond in the amount of the judgment not to exceed coverage limits pursuant to an amendment to [Virginia Code 16.1-107](#). Though general district courts are not courts of record, parties may want to bring a court reporter to general district court trials to preserve testimony, which may prove useful for impeachment purposes in the event of an appeal.

This change does not alter the court's jurisdiction to hear claims, counter-claims, or cross-claims in an unlawful detainer actions seeking damages sustained or rent claimed against any person or guarantor obligated under a lease.

## **EXPANSION OF COURTS** (Effective January 1, 2022)

Starting January 1, 2022, the jurisdictional scope of the Court of Appeals of Virginia will expand considerably. Among other cases, the Court of Appeals will now hear appeals of circuit court judgments in civil cases as a matter of right.

Litigants will now have a guaranteed right of appeal to the Virginia Court of Appeals in all civil cases, under an amendment to [Virginia Code § 17.1-405](#). Previously, parties seeking to challenge a circuit court judgement in a civil case were required to petition the Supreme Court of Virginia for an appeal. The highest court typically

grants appeals in less than 25% of civil cases in which a petition is filed and does not often explain why it is refusing an appeal.

In addition to final judgments in civil cases, the Court of Appeals also will have jurisdiction over interlocutory appeals and petitions for review of injunctions, areas that were previously reserved to the Supreme Court of Virginia, pursuant to Virginia Code §§ 8.01-675.5 (a new subsection) and [8.01-626](#), respectively. Decisions of the Court of Appeals can be appealed to the Supreme Court of Virginia, which retains the discretion to accept or refuse a petition for appeal under [Virginia Code § 17.1-411](#).

To help with the increased workload, the number of judges in the Court of Appeals of Virginia will increase from 11 to 17. The General Assembly continues to vet candidates for the additional positions.

### **LIMITATIONS ON ENFORCEMENT OF JUDGMENTS** (Effective July 1, 2021)

Starting July 1, 2021, judgment creditors will have to enforce their judgments sooner, and take action to keep them viable longer. This amendment to [Virginia Code § 8.01-251](#) reduces from 20 years to 10 years the time within which a judgment may be enforced. The enforcement period may be extended twice by recording a certificate in the clerk's office in which a judgment lien is recorded. The certificate must be filed before the original enforcement period expires, and extends the enforcement period by 10 years from the date the certificate is recorded.

Judgments obtained before July 1, 2021 will continue to be enforceable for 20 years from the date of judgment.

### **ACCRUAL OF A CAUSE OF ACTION FOR A LATENT INJURY** (Effective July 1, 2021)

An amendment to [Virginia Code § 8.01-249](#) codifies application of the “discovery rule” to claims for certain latent personal injuries. A cause of action for a latent injury resulting from exposure to a substance or the use of a product will accrue when the person knew or should have known of the injury and its causal connection to an injury-causing substance or product. For purposes of this statute, “latent” means injuries that remain dormant or do not develop, and therefore, are not diagnosable during the 2-year limitations period proscribed in [Virginia Code § 8.01-243\(A\)](#). Asbestos-related injuries and claims against health-care providers are expressly excluded from the operation of this subsection.