



VIRGINIA DAMAGES LAWS QUICK REFERENCE GUIDE

Choice of Venue	District Court: Maximum recovery is \$25,000 ¹ Circuit Court: Claims over \$25,000, and concurrent jurisdiction for claims between \$4,500 and \$25,000 ¹
Economic vs. Non-Economic Damages	Economic: Quantifiable damages such as the cost of repair or replacement of property, the cost of medical care and treatment (past and future), or lost income (past and future) Non-Economic: Non-quantifiable damages such as pain and suffering, intentional infliction of emotional distress, etc. Virginia does not have a claim for consortium.
Statutes of Limitations	Personal Injury and Wrongful Death: 2 years ² Property Damage: 5 years ³ Contract: 5 years for written contracts, 3 years for unwritten, express or implied contracts ⁴ U.C.C. Breach of Contract of Sale/Warranty: 4 years; parties may reduce to not less than 1 year ⁵ Products Liability: 2 years ³ Non-Suit Statute: The statute allows a plaintiff to end a case before it is actually adjudicated. It can be done at any time before the case is submitted to a jury or the court. A plaintiff is entitled to one non-suit as a matter of right although the court may allow additional non-suits. If a plaintiff non-suits, they may refile regardless of the statute of limitations, as long as the original claim was within the limitations period. ⁶
Economic Loss Doctrine	Absent privity of contract, the economic loss doctrine precludes the recovery of damages based purely on economic loss. ⁷

¹ See Va. Code Ann. § 16.1-77

² See Va. Code Ann. § 8.01-243; § 8.01-244

³ See Va. Code Ann. § 8.01-243

⁴ See Va. Code Ann. § 8.01-246

⁵ See Va. Code Ann. § 8.2-725

⁶ See Va. Code Ann. § 8.01-380

⁷ See *Gerald M. Moore & Son, Inc. v. Drewry*, 467 S.E.2d 811 (Va. 1996)

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Personal Injury or Wrongful Death Damages Cap	<p>Generally, there are no caps on economic or non-economic damages for most standard personal injury cases.</p> <p>Exception 1: \$2.35 million damage cap for medical malpractice damages through June 30, 2018, increasing by \$500,000 on July 1 of each year⁸</p> <p>Exception 2: \$350,000 cap for punitive damages, however, punitive damages may not be awarded if the party liable for the injury is deceased⁹</p> <p>Exception 3: \$100,000 cap for claims against the Commonwealth of Virginia accruing on or after July 1, 1993¹⁰</p>
Wrongful Death Damages	<p>The damages awarded under the wrongful death statute include: 1) sorrow, mental anguish, and solace which may include society, companionship, comfort, guidance, kindly offices and advice of the decedent; 2) compensation for reasonably expected loss of (i) income of the decedent and (ii) services, protection, care and assistance provided by the decedent; 3) expenses for the care, treatment and hospitalization of the decedent incident to the injury resulting in death; 4) reasonable funeral expenses (no statutory limit); and 5) punitive damages may be recovered for willful or wanton conduct, or such recklessness as evinces a conscious disregard for the safety of others.¹¹</p> <p>Punitive damages are permitted in a wrongful death action, as long as the offender is still alive.¹²</p>
Noteworthy Virginia Rules	<p>Strict Automatic Default Judgment: If a defendant fails to file a responsive pleading within the required time period, even if the plaintiff has granted an unlimited extension of time to file a responsive pleading, the defendant is still technically in default. Virginia has strict rules granting automatic judgments against a defendant who is in default.¹³</p> <p>Split Property and Personal Damage: As an exception to the <i>res judicata</i> and claim preclusion rules, plaintiffs in Virginia are not barred from prosecuting separate personal injury and property damage suits arising out of the same conduct, transaction or occurrence.¹⁴</p>

**This is meant to be a quick reference guide for the general laws of this jurisdiction.
However, legal issues are complex and often require legal expertise.
Please call the attorneys at DeCaro Doran to address any specific questions.**

⁸ See Va. Code Ann. § 8.01-581.15

⁹ See Va. Code Ann. § 8.01-38.1; Va. Code Ann. § 8.01-25

¹⁰ See Va. Code Ann. § 8.01-195.3

¹¹ See Va. Code Ann. § 8.01-52

¹² See Va. Code Ann. §§ 8.01-52; Va. Code Ann. § 8.01-25

¹³ See Va. Sup. Ct. R. 3:19

¹⁴ See Va. Sup. Ct. R. 1:6