

**RULES OF SUPREME COURT OF VIRGINIA
PART FIVE A
THE COURT OF APPEALS**

APPENDIX OF FORMS.

Notes:

- 1. Each of the Part Five A Forms 1 through 7 should be used in conjunction with the Form for Execution and Acknowledgment of All Bonds, set forth as Form 8.**
- 2. As provided in Code §§ 1-205 and 8.01-676.1(S), if the party required to post an appeal or suspending bond tenders such bond together with cash in the full amount required, no surety is required.**

Adopted by Order dated February 15, 2017; effective May 1, 2017.

Last amended by Order dated November 23, 2020; effective March 1, 2021.

RULES OF SUPREME COURT OF VIRGINIA
PART FIVE A
THE COURT OF APPEALS
APPENDIX OF FORMS

Form 1. Bond for Costs Alone — Appeal of Right From Circuit Court to Court of Appeals (including further appeal to the Supreme Court).

(Circuit Court case caption)

Plaintiff/Petitioner)	No. _____
v.)	
Defendant/Respondent)	

The Appellant(s), _____, having appealed from a judgment of this Court rendered on _____, 2 ____, we _____, as principal and _____, as surety, bind ourselves, our heirs, successors, personal representatives and assigns, jointly and severally, to Appellee(s), _____, in the sum of \$_____, to satisfy all damages, costs, and fees that may be awarded against (him) (her) (them) (it) in the Court of Appeals and in the Supreme Court, if it takes cognizance of the claim.

Adopted by Order dated February 15, 2017; effective May 1, 2017.

RULES OF SUPREME COURT OF VIRGINIA
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Form 2. Bond for Costs and Suspension — Appeal From Circuit Court to Appellate Court.

(Circuit Court case caption)

Plaintiff/Petitioner)	
v.)	No. _____
Defendant/Respondent)	

The Appellant(s), _____, (intending to appeal) (having appealed from) a judgment of this Court rendered on _____, 2____, we _____, as principal and _____, as surety, bind ourselves, our heirs, successors, personal representatives and assigns, jointly and severally, to Appellee(s), _____, in the sum of \$_____, to perform and satisfy the judgment, or such portion of the judgment as may be affirmed in whole or in part, or if the appeal is dismissed, refused, or not timely prosecuted, and to pay all damages, costs, and fees that may be awarded against (him) (her) (them) (it) in the (Court of Appeals and in the Supreme Court, if it takes cognizance of the claim) (Supreme Court).

Adopted by Order dated February 15, 2017; effective May 1, 2017.

RULES OF SUPREME COURT OF VIRGINIA
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Form 3. Bond for Costs Alone Required by Appellate Court on Appeal From Circuit Court.

(Circuit Court case caption)

Plaintiff/Petitioner)	No. _____
v.)	
Defendant/Respondent)	

The Appellant(s), _____, appealed from a judgment of this Court rendered on _____, 2___, and the (Supreme Court of Virginia) (Court of Appeals of Virginia), on _____, 2___, awarded an appeal from the judgment on the condition that Appellant(s), or someone on Appellant's/Appellants' behalf, file an appeal bond with sufficient security in the clerk's office of this Court in the penalty of _____ within fifteen (15) days of the date of the certificate of appeal, with condition as the law directs. Accordingly, we _____, as principal and _____, as surety, bind ourselves, our heirs, successors, personal representatives and assigns, jointly and severally, to Appellee(s), _____, in the sum of \$_____, to pay all damages, costs, and fees that may be awarded against (him) (her) (them) (it) in the (Court of Appeals and Supreme Court, if it takes cognizance of the claim) (Supreme Court).

Adopted by Order dated February 15, 2017; effective May 1, 2017.

RULES OF SUPREME COURT OF VIRGINIA
PART FIVE A
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Form 4. Bond for Suspension Alone Required by Appellate Court on Appeal From Circuit Court.

(Circuit Court case caption)

Plaintiff/Petitioner)	
v.)	No. _____
Defendant/Respondent)	

The Appellant(s), _____, appealed from a judgment of this Court rendered on _____, 2___, and (the Supreme Court of Virginia) (Court of Appeals of Virginia), on _____, 2___, suspended execution of the judgment on the condition that _____, or someone on (his) (her) (their) (its) behalf, file an appeal bond with sufficient security in the clerk’s office of this Circuit Court, in the penalty of \$_____ within fifteen (15) days of the date of the certificate of appeal, with condition as the law directs. Accordingly, we _____, as principal and _____, as surety, bind ourselves, our heirs, successors, personal representatives and assigns, jointly and severally, to Appellee(s), _____, in the sum of \$_____ , to perform and satisfy the judgment or such portion of the judgment as may be affirmed in whole or in part, and to pay all actual damages incurred in consequence of the suspension.

Adopted by Order dated February 15, 2017; effective May 1, 2017.

RULES OF SUPREME COURT OF VIRGINIA
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Form 5. Bond for Costs and Suspension Required by Appellate Court on Appeal From Circuit Court.

(Circuit Court case caption)

Plaintiff/Petitioner)	
v.)	No. _____
Defendant/Respondent)	

The Appellant(s), _____, appealed from a judgment of this Court rendered on _____, 2___, and (the Supreme Court of Virginia) (Court of Appeals of Virginia), on _____, 2___, awarded an appeal (and suspension) from the judgment on the condition that Appellant(s), or someone on Appellant's/Appellants' behalf, file a bond with sufficient security in the clerk's office of this Court in the penalty of \$_____, within fifteen (15) days of the date of the certificate of appeal, with condition as the law directs. Accordingly, we _____, as principal and _____, as surety, bind ourselves, our heirs, successors, personal representatives and assigns, jointly and severally, to Appellee(s), _____, in the sum of \$_____, to pay all damages, costs, and fees that may be awarded against (him) (her) (them) (it) in the (Court of Appeals and Supreme Court, if it takes cognizance of the claim) (Supreme Court), and all actual damages incurred in consequence of the suspension.

Adopted by Order dated February 15, 2017; effective May 1, 2017.

RULES OF SUPREME COURT OF VIRGINIA
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Form 6. Additional Bond Required by Appellate Court on Appeal From Circuit Court.

(Circuit Court case caption)

Plaintiff/Petitioner)	
v.)	No. _____
Defendant/Respondent)	

The Appellant(s), _____, appealed from a judgment of this Court rendered on _____, 2____, and (the Supreme Court of Virginia) (Court of Appeals of Virginia), on _____, 2____, required an additional bond to be filed in the clerk’s office of this Court in the penalty of \$_____, and with the following additional requirements:_____

_____, within fifteen (15) days of the date of that order, with condition as the law directs. Accordingly, we _____, as principal and _____, as surety, bind ourselves, our heirs, successors, personal representatives and assigns, jointly and severally, to Appellee(s), _____, in the sum of \$_____, to perform and satisfy the judgment or such portion of the judgment as may be affirmed in whole or in part, and to pay all actual damages incurred in consequence of the suspension.

Adopted by Order dated February 15, 2017; effective May 1, 2017.

RULES OF SUPREME COURT OF VIRGINIA
PART FIVE A
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**Form 7. Bond for Costs Alone — Appeal of Right From Virginia Workers’
Compensation Commission to Court of Appeals (including further appeal
to the Supreme Court).**

(Virginia Workers’ Compensation Commission caption)

Petitioner)	
v.)	No. _____
Respondent)	

The Appellant, _____, (intending to appeal) (having appealed from)
an award of the Virginia Workers’ Compensation Commission rendered on _____,
2___, we
_____, as principal and _____, as surety, bind ourselves,
our heirs, successors, personal representatives and assigns, jointly and severally, to
Appellee(s), _____, in the sum of \$_____, to pay all damages, costs,
and fees that may be awarded against (him) (her) (them) (it) in the Court of Appeals and
Supreme Court, if it takes cognizance of the claim.

Adopted by Order dated February 15, 2017; effective May 1, 2017.

RULES OF SUPREME COURT OF VIRGINIA
PART FIVE A
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Form 8. Form for Execution and Acknowledgment of All Bonds.

_____, as principal, and _____, as
surety, hereby execute this instrument with our signatures and our seals.

Executed on: _____

Principal

Address
(SEAL)

Commonwealth of Virginia

City/County of _____

The foregoing instrument was acknowledged before me on
_____, 2___, by _____.

Notary Public

My commission expires: _____

Adopted by Order dated February 15, 2017; effective May 1, 2017.

RULES OF SUPREME COURT OF VIRGINIA
PART FIVE A
THE COURT OF APPEALS
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Form 9. Irrevocable Letters of Credit.

(Name and Address of Bank)

_____, 20____

U.S. \$_____

On all communications please refer to (No. of Letter of Credit)

(Name and address of appellee(s))

Dear _____:

We hereby establish our Irrevocable Letter of Credit No. _____ in your favor, for the account of (name and address of appellant(s)), and hereby undertake to honor your draft at sight on us, not exceeding in the aggregate U.S. \$ (amount in words). A draft drawn under this letter of credit must be marked "Drawn under (Name of Bank) Letter of Credit No. _____ dated _____, 20____." Funds under this letter of credit will be available to you in a single drawing by presentation of your sight draft drawn on us, accompanied by:

(For Costs Alone)

1. The original of this letter of credit.
2. Your verified statement that (appellant(s)) (has)(have) failed to pay all damages, costs and fees assessed against (him)(her)(them)(it) in the Court of Appeals of Virginia (and in the Supreme Court of Virginia, if it takes cognizance of the claim), in the case of _____
3. A certified copy of an order or itemized statement of costs from the Court of Appeals (or the Supreme Court, if it takes cognizance of the claim) assessing such damages, costs and fees against (appellant(s)).

(For Suspension Alone)

1. The original of this letter of credit.
2. Your verified statement that (appellant(s)) (has)(have) failed to perform and

satisfy the judgment rendered against (him)(her)(them)(it) on _____ by the Circuit Court of _____ in the case of _____, and (has)(have) failed to pay all actual damages incurred in consequence of the suspension of judgment.

3. A copy of the trial court judgment order, attested by its clerk.
4. A copy of an order of the Court of Appeals of Virginia (or the Supreme Court of Virginia, if it takes cognizance of the claim), attested by its clerk, affirming the judgment or refusing, dismissing or allowing withdrawal of the appeal of the judgment, or certification by the clerk that the appeal of the judgment was not prosecuted timely.
5. A copy of an order, if any, of the Court of Appeals (or the Supreme Court, if it takes cognizance of the claim) or trial court, attested by the clerk, assessing actual damages in consequence of the suspension of judgment.

(For Costs and Suspension)

1. The original of this letter of credit.
2. Your verified statement that (appellant(s)) (has)(have) failed to perform and satisfy the judgment rendered against (him)(her)(them)(it) on _____ by the Circuit Court of _____ in the case of _____, and (has)(have) failed to pay all damages, costs and fees assessed against (him)(her)(them)(it) in the Court of Appeals of Virginia (or the Supreme Court of Virginia, if it takes cognizance of the claim), and all actual damages incurred in consequence of the suspension of judgment.
3. A copy of the trial court judgment order, attested by its clerk.
4. A copy of an order of the Court of Appeals (or the Supreme Court, if it takes cognizance of the claim), attested by its clerk, affirming the judgment or refusing, dismissing or allowing withdrawal of the appeal of the judgment, or certification by the clerk of the Court of Appeals that the appeal of the judgment was not prosecuted timely.
5. A copy of an order, if any, of the Court of Appeals (or the Supreme Court, if it takes cognizance of the claim), attested by its clerk, assessing damages, costs and fees against (appellant(s)) .
6. A copy of an order, if any, of the Court of Appeals (or the Supreme Court, if it takes cognizance of the claim) or trial court, attested by the clerk, assessing actual damages in consequence of the suspension of judgment.

This letter of credit is valid until ____ p.m. local time _____, 20____, and a draft drawn hereunder, if accompanied by documents as specified above, will be honored if presented to (Presentation Address of Bank) on or before that date. However, this

letter of credit automatically will be renewed for successive one (1) year periods from the initial expiration date or any renewal period expiration date hereunder, unless at least sixty (60) days prior to any such expiration date (Name of Bank) notifies you that it has elected not to renew this letter of credit for such additional one (1) year period. The notice required hereunder will be deemed to have been given when received by you.

In the event that (Name of Bank) elects not to renew this letter of credit as required above, the full amount of this letter of credit is payable to the Clerk of the Circuit Court of _____ upon presentation of your verified statement that:

1. A final order of the Court of Appeals of Virginia (or the Supreme Court, if it takes cognizance of the claim), has not been entered in the case of _____ (or, where there has been suspension of judgment, a final order has not been entered by the Court of Appeals, Supreme Court, or trial court assessing actual damages in consequence of the suspension).
2. Thirty (30) days have elapsed since notice of non-renewal was given and appellant(s) (has)(have) not filed acceptable substitute security.

In the event of non-renewal, within fifteen (15) days after payment to the clerk under the previous paragraph, the appellant(s) or someone for (him)(her)(them)(it) must file with the clerk of the trial court an appeal bond in substantial conformance with the appropriate form in the Appendix to Part Five A of the Rules of the Supreme Court of Virginia. The bond must be in the penalty of the amount paid to the clerk under this letter of credit, and the funds are in lieu of surety, but in no event will we have any liability or responsibility for failure of the appellant(s) (or someone acting on (appellant's) (appellants') behalf) to file such bond.

Partial drawings are not permitted under this letter of credit.

Except as otherwise expressly stated above, this letter of credit is subject to the International Standby Practices 1998 (ISP98) (International Chamber of Commerce Publication No. 590) and, to the extent consistent with ISP98 and the express provisions above, the provisions of Title 8.5A of the Code of Virginia governing letters of credit.

Very truly yours,

_____ Bank

By _____

Authorized Signature

Last amended by Order dated November 1, 2021; effective January 1, 2022.

RULES OF SUPREME COURT OF VIRGINIA
PART FIVE A
THE COURT OF APPEALS
APPENDIX OF FORMS

Form 10. Petition for a Writ of Actual Innocence Based on Nonbiological Evidence.

PETITION FOR A WRIT OF ACTUAL INNOCENCE BASED ON
NONBIOLOGICAL EVIDENCE

THE COURT OF APPEALS OF VIRGINIA

_____ Record No. _____
(FULL NAME OF PETITIONER AND PRISONER NO., IF APPLICABLE) (TO BE SUPPLIED BY THE CLERK OF THE COURT OF APPEALS)

v.
Commonwealth of Virginia
(RESPONDENT)

(PETITIONER'S ADDRESS)

Pursuant to the provisions of Chapter 19.3 of Title 19.2 of the Code of Virginia, I, _____
NAME OF PETITIONER

hereby petition this Court for a WRIT OF ACTUAL INNOCENCE BASED ON NONBIOLOGICAL EVIDENCE. In support of this petition, I state under oath that the following information is true:

1. On _____, I was convicted or adjudicated delinquent in the

_____ Circuit Court of the following offense(s):
JURISDICTION (CITY/COUNTY)

Description of Felony Offense	Virginia Code	Circuit Court Case No.	Plea
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

2. I am innocent of the offenses(s) that are the subject of this petition.

3. My claim of innocence is based upon the following evidence:

[] ATTACHED ADDITIONAL SHEET(S)

4. Check all that apply:

[] (a) This evidence was previously unknown or unavailable to either me or my attorney at the time the conviction(s) or adjudication(s) of delinquency became final in the circuit court; and/or

[] (b) This evidence was not subject to scientific testing because _____

5. This evidence became known or available to me on _____ DATE

6. The circumstances under which the evidence was discovered were

[] ATTACHED ADDITIONAL SHEET(S)

7. Check all that apply:

[] (a) This evidence could not have been discovered or obtained by the exercise of diligence before the expiration of 21 days following entry of the final order(s) of conviction or adjudication of delinquency by the court; and/or

[] (b) The testing procedure was not available at the time of the conviction(s) or adjudication(s) of delinquency became final in the circuit court.

8. The evidence upon which I base my claim is material and, when considered with all of the other evidence in the record, will prove that no rational trier of fact would have found me to be guilty or delinquent beyond a reasonable doubt of the charge(s) described above because

[] ATTACHED ADDITIONAL SHEET(S)

9. In support of this petition, I have attached the following documents:

[] ATTACHED ADDITIONAL SHEET(S)

10. I understand that this petition must contain all relevant allegations of facts that are known to me at this time.

11. I understand that it must include all previous records, applications, petitions, and appeals and their dispositions related to this/these conviction(s) or adjudication(s) of delinquency, as well as a copy of any documents or evidence in support of the facts that I assert above.

12. I understand that if this petition is not complete, this Court may dismiss the petition or return the petition to me pending the completion of such form.

13. I understand that I am responsible for all statements contained in this petition.

14. I understand that any knowingly or willfully made false statement is grounds for prosecution and conviction of perjury as provided for in Virginia Code § [18.2-434](#).

15. Counsel. Check the appropriate box.

I am being represented by an attorney on the filing of this petition.

My attorney's name and address are

I am not being represented by an attorney on the filing of this petition.

16. Exemption from filing fee. Check box below if claiming in forma pauperis status and seeking to file this petition without payment of fees.

I claim *in forma pauperis* status and I request that this Court accept this petition without the payment of filing fees. I affirm under oath that I am eligible for *in forma pauperis* status. My assets amount to \$_____ (which sum includes my institutional inmate account which has a balance of \$_____), and my liabilities amount to \$_____.

17. Request for counsel. Check box below if claiming eligibility for court-appointed counsel and requesting appointment of counsel.

I am requesting that the Court appoint counsel to represent me in this action. I affirm under oath that I am unable to pay for an attorney to represent me in this action, as set forth in item No. 17 above.

Based on the above, I petition this Court pursuant to the provisions of Chapter 19.3 of Title 19.2 of the Code of Virginia for a Writ of Actual Innocence Based on Nonbiological Evidence.

DATE

SIGNATURE OF PETITIONER

Commonwealth/State of _____

[] City [] County of _____

Subscribed and sworn to/affirmed before me on this date by the above-named person.

DATE NOTARY PUBLIC

My commission expires: _____

DATE SIGNATURE OF ATTORNEY (IF APPLICABLE)

VIRGINIA STATE BAR NUMBER

Pro se (self-represented) petitioners: You are required to send copies of the PETITION FOR A WRIT OF ACTUAL INNOCENCE BASED ON NONBIOLOGICAL EVIDENCE and all attachments to the Commonwealth's Attorney of the jurisdiction where the conviction(s) or adjudication(s) of delinquency occurred and to the Attorney General of Virginia by certified mail. You must complete the form entitled Court of Appeals Form CAV-104, CERTIFICATE OF MAILING - PETITION FOR A WRIT OF ACTUAL INNOCENCE BASED ON NONBIOLOGICAL EVIDENCE.

Petitioners represented by counsel: You are required to serve copies of the PETITION FOR A WRIT OF ACTUAL INNOCENCE BASED ON NONBIOLOGICAL EVIDENCE and all attachments on the Commonwealth's Attorney of the jurisdiction where the conviction(s) or adjudication(s) of delinquency occurred and on the Attorney General of Virginia. You must include the forms entitled Court of Appeals Form CAV-103CA, ACCEPTANCE OF SERVICE OR RETURN OF SERVICE BY THE COMMONWEALTH'S ATTORNEY - PETITION FOR A WRIT OF ACTUAL INNOCENCE BASED ON NONBIOLOGICAL EVIDENCE and Court of Appeals Form CAV-103AG, ACCEPTANCE OF SERVICE OR RETURN OF SERVICE BY THE ATTORNEY GENERAL - PETITION FOR A WRIT OF ACTUAL INNOCENCE BASED ON NONBIOLOGICAL EVIDENCE.

Last amended by Order dated September 24, 2020; effective immediately.

Last amended by Order dated November 23, 2020; effective March 1, 2021.