

Tuesday 28th February, 2006.

It is ordered that the Rules heretofore adopted and promulgated by this Court and now in effect be and they hereby are amended to become effective immediately.

Amend Rule 4:2 to read as follows:

**Rule 4:2. Depositions Before Action or Pending Appeal.**

(a) *Before Action.* --

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(2) Notice and Service. The petitioner shall thereafter serve a notice upon each person named in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the court, at a time and place named therein, for the order described in the petition. At least 21 days before the date of hearing the notice shall be served either within the Commonwealth in the manner provided for service of a complaint or without the Commonwealth in the manner provided by Code §8.01-320; but if such service cannot with due diligence be made upon any expected adverse party named in the petition, the court may make such order as is just for service by publication or otherwise, and shall appoint, for persons not so served, an attorney who shall represent them, and, in case they are not otherwise represented, shall cross-examine the deponent. If any expected adverse party is a person under a disability, a guardian ad litem shall be appointed to attend on his behalf.

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Amend Rule 4:8 to read as follows:

**Rule 4:8. Interrogatories to Parties.**

*(a) Availability; Procedures for Use.* - Any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the complaint upon that party.

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Amend Rule 4:9 to read as follows:

**Rule 4:9. Production of Documents and Things and Entry on Land for Inspection and Other Purposes; Production at Trial.**

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*(b) Procedure.* - The request may, without leave of court, except as provided in paragraph (c-1), be served upon the plaintiff after commencement of the action and upon any other party with or after service of the complaint upon that party. The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, period and manner of

making the inspection and performing the related acts.

The party upon whom the request is served shall serve a written response within 21 days after the service of the request, except that a defendant may serve a response within 28 days after service of the complaint upon that defendant. The court may allow a shorter or longer time. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. The party submitting the request may move for an order under Rule 4:12(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

A party who produces documents for inspection either shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

When one party to a civil proceeding subpoenas documents concerning another party, the subpoenaing party, upon receipt of the subpoenaed documents, shall, if requested, provide true and full copies of the same to any party or to the attorney for any other party in accordance with Code § 8.01-417(B).

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Amend Rule 4:11 to read as follows:

**Rule 4:11. Requests for Admission.**

(a) *Request for Admission.* - A party may serve upon any other party a written request for the admission, for purposes

of the pending action only, of the truth of any matters within the scope of Rule 4:1(b) set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the complaint upon that party.

Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within 21 days after service of the request, or within such shorter or longer time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney, but, unless the court shortens the time, a defendant shall not be required to serve answers or objections before the expiration of 28 days after service of the complaint upon him. If objection is made, the reasons therefore shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to

admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; he may, subject to the provisions of Rule 4:12(c), deny the matter or set forth reasons why he cannot admit or deny it.

The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the court determines that an objection is justified, it shall order that an answer be served. If the court determines that an answer does not comply with the requirements of this Rule, it may order either that the matter is admitted or that an amended answer be served. The court may, in lieu of these orders, determine that final disposition of the request be made at a pretrial conference or at a designated time prior to trial. The provisions of

Rule 4:12(a)(4) apply to the award of expenses incurred in relation to the motion.

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Amend Rule 7B:3 to read as follows:

**Rule 7B:3. General Provisions as to Pleadings.**

(a) A party asserting either a claim, counterclaim, cross-claim or a defense may plead alternative facts and theories of recovery against alternative parties, provided that such claims, defenses, or demands for relief so joined arise out of the same transaction or occurrence. Subject to the jurisdictional limits of the General District Court, a

party may also state separate related claims or defenses regardless of consistency and whether based on legal or equitable grounds.

(b) The warrant, summons or complaint or an attachment thereto shall contain a statement, approved by the Committee on District Courts, explaining how a defendant may object to venue.

(c) The warrant, summons or complaint, or an attachment thereto shall contain a statement, approved by the Committee on District Courts, explaining that if the case is contested, how a trial date will be set.

(d) All civil warrants and complaints shall contain on their face language in substantially the following form: "The defendant is not required to appear pursuant to this document, but if the defendant does not appear, judgment may be granted in favor of the plaintiff."

Amend Rule 7B:4 to read as follows:

**Rule 7B:4. Trial of Action.**

(a) *Method of bringing action.* A civil action in a general district court may be brought by warrant, summons or complaint directed to the sheriff or to any other person authorized to serve process, requiring such individual to summon the person against whom the claim is asserted to appear before the court on a certain day to answer the complaint of the plaintiff set out in the warrant, summons or complaint.

(b) *When action heard.* If all parties appear and are

ready for trial on the return date of the warrant, summons or complaint, the court may proceed with the trial of the case.

Amend Rule 7B:10 to read as follows:

**Rule 7B:10. Third-Party Practice and Consolidation of Actions.**

(a) *When Defendant May Bring in Third Party:* Whenever a party is served with a warrant, summons, complaint, counterclaim or cross-claim, such party may within 10 days after service or up to the trial date, whichever is sooner, file a third-party civil warrant or complaint on a person not a party to the action who is or may be liable to the party for all or part of the claim being asserted against such party. After such time period, such third-party claim may be asserted only with leave of court.

Any party may move to strike the third-party warrant or complaint, or move for its severance for a separate trial. A third-party defendant may proceed under this rule against any person not a party to the action who is or may be liable to him for all or part of the claim made in the action against the third-party defendant.

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Amend Rule 2 of the Medical Malpractice Rules of Practice to read as follows:

**Rule 2. Request for Medical Malpractice Review Panel.**

(a) *Request for Panel.* - The plaintiff or any defendant health care provider may, within thirty days from the filing of the responsive pleading in any action brought for malpractice against a health care provider, file a written request for a review by a panel with the clerk of the Supreme Court of Virginia. The request for review of such claim by a panel shall be deemed to be filed when delivered or mailed by registered or certified mail to the clerk of the Supreme Court of Virginia. The request shall include a copy of the complaint and a copy of all responsive pleadings. A copy of the request shall be filed with the clerk of the circuit court wherein the malpractice action has been filed, and a copy of such request shall be mailed to the opposing party and its counsel, if known. The request shall include the name of the judge to whom the case is assigned. Upon receipt of the request the circuit court clerk shall immediately advise the judge to whom the case has been assigned.

\* \* \*

(c) *Multiple Parties.* - Any health care provider named as a defendant shall have the right to request a panel and, in that event, shall mail copies of its request to the other health care providers named in the complaint as well as to the plaintiff and his counsel of record. When a request for a panel is made by any party, a single panel shall be designated and all health care providers against whom a claim is asserted shall be subject to the jurisdiction of such panel.

Amend Rule 3A:22 to read as follows:



**Rule 3A:22. Forms.**

Forms 1 through 9 and 11 in the Appendix of Forms are illustrative and not mandatory; however, Form 10 requires substantial compliance.

A Copy,

Teste:

Clerk