

A DEFENDANT'S STEP-BY-STEP PROCESS THROUGH VIRGINIA'S GENERAL DISTRICT COURT

Legal
Terms

UPDATED 6/4/07

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This walk-through takes you, the defendant, through the General District Court (GDC), from the time you receive the summons (in this case the **Warrant in Debt** [DC-412]) through a total of 6 steps ending with collection efforts. Below that is the Warrant in Debt with views of 10 important parts.

Those six steps are:

- Receipt of the warrant;
- The Return Date;
- After the Return Date and before the trial;
- The trial;
- After the trial; and
- Collection efforts.

These "steps" were not written to be comprehensive or legally sufficient. There are many areas that are not covered and those areas that are covered are not all inclusive.

The purpose of this walk-through is to hit the highlights of the process.

If you are not familiar with a legal term, click on "Legal Terms" above to see if it is defined for you.

First Page

[Receipt of the Warrant](#)
[The Return Date](#)
[After the Return Date Before the Trial](#)
[The Trial After the Trial](#)
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You are strongly encouraged to consult with a lawyer for additional information regarding your rights and responsibilities.



For-Fee Lawyer: To get legal advice for a nominal fee, telephone (804) 775-0808 or Nationwide Toll Free Number: 800 552-7977

Virginia Lawyer Referral Service (State-Wide)

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HEARING DATE AND TIME

Hearing Date and Time is found in two places on the form, in the above block No. 1 and at the top right of the form. This is the day and time you come to court.

The lines below the "Hearing Date and Time" are for administrative uses including dates for continuances.

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CLAIM: Plaintiff(s) claim that Defendant(s) owe Plaintiff(s) a debt in the sum of \$ _____ net of any credits, with interest at _____ % from date of _____ until paid, \$ _____ costs and \$ _____ attorney's fees with the basis of this claim being Open Account Contract Note Other (EXPLAIN) _____
HOMESTEAD EXEMPTION WAIVED? YES NO cannot be demanded
DATE _____ PLAINTIFF PLAINTIFF'S ATTORNEY PLAINTIFF'S EMPLOYEE/AGENT

The Claim tells you the dollar amount, the interest and the date the interest began running. It tells you the type of claim: Open Account, Contract, Note, or Other (for example damages as a result of an auto accident). For the judgment rated of interest see

Va. Code § 6.1-330.54. For attorney's fees see *J.R. Mullins, et al. v. Richlands National Bank*, 241 Va. 447; 403 S.E.2d 334 (1991). For information on the waiver of the homestead exemption see Va. Code § 34-25 and information generally about the homestead exemption, see http://www.lsnv.org/Garnishment_Exemption_Wages_Accounts.pdf.

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WARRANT IN DEBT

TO DEFENDANT: You are not required to appear, however, if you fail to appear, judgment may be entered against you. See the additional notice on the reverse about requesting a change of trial location.
[] To dispute this claim, you must appear on the return date to try this case.
[] To dispute this claim, you must appear on the return date for the judge to set another date for trial.
Bill of Particulars ORDERED DUE
Grounds of Defense ORDERED DUE
ATTORNEY FOR PLAINTIFF(S)
ATTORNEY FOR DEFENDANT(S)

If you are the defendant, this tells you that you are not required to appear in court, but if do not, a judgment may be taken against you.

If you dispute (disagree with) the plaintiff's claim, see which box is checked. If the first box is checked then you must appear on the return date, and later that day the trial will be held.

If the second box is checked, you must appear on the return date and a trial will be scheduled for a later day.

If you dispute the claim or any part of it, you may want to ask the judge to order the plaintiff to file a **Bill of**

Particulars. If you are the plaintiff, you may want to request that the judge order the defendant to file an **Answer** with Grounds of Defense.

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CASE DISPOSITION

JUDGMENT against named Defendant(s)
 for \$ net of any credits, with interest at % from date
 of until paid, \$ costs and \$ attorney's fees
 HOMESTEAD EXEMPTION WAIVED? YES NO CANNOT BE DEMANDED
 JUDGMENT FOR NAMED DEFENDANT(S)
 NON-SUIT DISMISSED
 Defendant(s) Present? YES
 NO

 DATE _____ JUDGE _____

The judge fills out this information. For information on the waiver of the homestead exemption see Va. Code **§ 34-25**. For information regarding "Nonsuit" see Virginia Code **§ 8.01-380**.

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DISABILITY ACCOMMODATIONS for loss of hearing, vision, mobility, etc., contact the court ahead of time.

If either party requires special accommodations, they should contact the clerk's office prior to court.

Second Page of the Warrant in Debt —

Service on the Defendant (see http://www.lsnv.org/Void_Voidable_Judgments.doc)

8 Service/by Sheriff

RETURNS: Each defendant was served according to the following manner:

NAME: _____
ADDRESS: _____
<input type="checkbox"/> PERSONAL SERVICE: Tol. No. _____
<input type="checkbox"/> Being unable to make personal service, a copy was delivered in the following manner:
<input type="checkbox"/> Delivered to family member (not temporary spouse or guest) age 16 or older at usual place of abode of party named above after giving information of the purpose. List name, age of recipient, and relation of recipient to party named above.
<input type="checkbox"/> Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)
<input type="checkbox"/> Served on Secretary of the Commonwealth.
<input type="checkbox"/> NOT FOUND
SHERIFF OFFICE _____
DATE _____ for _____

There are 4 types of service by the sheriff shown on the form.

1. Personal;
2. Delivery to a family member at the place where you live;
3. Posted on the front door at the place where you live; or
4. Served on the Secretary of the Commonwealth.ⁱ

For service information, see Virginia Code §§ **8.01-293**, **8.01-295** and **8.01-296**.

This tells you how the sheriff (or private process server) served you.

[deliberately left blank]

9 Service/by Plaintiff

I certify that I mailed a copy of this document to the defendants named therein at the address shown therein on		
DATE	<input type="checkbox"/> Plaintiff	<input type="checkbox"/> Agent
	<input type="checkbox"/> Plaintiff's Atty.	
Fi. Fa. issued on		
Interrogatories issued on:		
Garnishment issued on		
.....		

This tells you that the plaintiff mailed a copy of the Summons for **Warrant in Debt** to you and the date. If the plaintiff mailed a copy of the Warrant in Debt before it was filed, this may explain why the mailed copy does not have the Case No. or the signature of the clerk.

The Fi. Fa. (Fieri Facias)ⁱⁱ, Interrogatories and **Garnishment** are ways to collect the judgment, if the judge finds for the plaintiff.

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OBJECTION TO VENUE:

To the Defendant(s): If you believe that Plaintiff(s) should have filed this suit in a different city or county, you may file a written request to have the case moved for trial to the general district court of that city or county. To do so, you must do the following:

1. Prepare a written request which contains (a) this court's name, (b) the case number and the "return date" as shown on the other side of this form in the right corner, (c) Plaintiff(s)' name(s) and Defendant(s)' name(s), (d) the phrase "I move to object to venue of this case in this court because" and state the reasons for your objection and also state in which city or county the case should be tried, and (e) your signature and mailing address.
2. File the written request in the clerk's office before the trial date (use the mail at your own risk) or give it to the judge when your case is called on the return date. Also send or deliver a copy to plaintiff.
3. If you mail this request to the court, you will be notified of the judge's decision.

FORM DC-412 (PAGE TWO OF TWO) 12/03 PDF

If you believe that the plaintiff should have filed this case in another city or county, you may object to the location and request the case to be transferred. You must tell the court the reasons for your objection. See form **Motion to Transfer Objecting to Venue and Request for Bill of Particulars**.

ⁱ <http://www.courts.state.va.us/forms/district/dc410.pdf>

ⁱⁱ The Writ of *Fieri Facias* causes a lien to be put on the judgment debtor's property. See Va. Code H§ 16.1-98H.

