

INTRODUCTION TO 2025 EDITION

Recent case law affecting this area of law is discussed within the text:

- In *Hazelwood v. Lawyer Garage, LLC*, 81 Va. App. 586, 904 S.E.2d 322 (2024), the Virginia Court of Appeals held that in a personal injury negligence case, where the alleged negligence occurred in Virginia, but the plaintiff's injury occurred in another state, the substantive law of the state of injury applies, inasmuch as the injury is an element of the wrong.

- Two federal court cases—one from the Eastern District of Virginia and one from the Western District of Virginia—have applied the source of duty rule under Virginia law to dismiss tort-based negligence claims against defendants whose duties arose under maintenance contracts to which the plaintiffs were not parties, where the plaintiffs alleged mere nonfeasance of the contracts and not misfeasance or malfeasance. *Manning v. Drury Hotels Co., LLC*, 2024 WL 1703087 (E.D. Va., April 19, 2024); *Cont'l Cas. Co. v. Pye-Barker Fire & Safety, LLC*, 2024 WL 1337193 (W.D. Va., March 28, 2024).

- In *Harris v. Howard*, __ Va. __, 913 S.E.2d 290 (2025), the Supreme Court of Virginia held that a wrongful death action arising out of a detainee's suicide using his confiscated gun left on a seat of the police vehicle was barred by the decedent's illegal act of possessing a firearm, since he was a convicted felon.

- In *Hehl v. Belk*, 2024 WL 3930974 (W.D. Va., Aug. 22, 2024), the Court held that the plaintiff's allegations that he was electrocuted when entering a department store elevator stated a claim for negligence based on the doctrine of *res ipsa loquitur*.

- In *Burgess v. Syp Hosp., LLC*, 2024 WL 4269226 (Va. Ct. App., Sept. 24, 2024), the Virginia Court of Appeals held that where a plaintiff stepped into a bathtub by leading with a foot that has reduced sensation due to diabetes, he may be guilty of contributory negligence.

- In *Boyette v. Sprouse*, 79 Va. App. 558, 572, 896 S.E.2d 435, 442 (2024), the Virginia Court of Appeals approved the use of a sudden emergency instruction, where the evidence showed more than the mere stopping of another vehicle in the line of traffic, and included additional circumstances of unusual blinding lights and the sudden appearance of an animal in the roadway.

- In *Trent v. Onderlaw, LLC*, 81 Va. App. 179, 193, 902 S.E.2d 124, 131 (2024), the Virginia Court of Appeals held that the scope of an attorney's duties may arise both from the parties' retainer agreement as well as from the attorney-client relationship, such that the attorney may have a duty to disclose anything known to him that may affect the client's decision whether or how to act, even if the retainer agreement does not expressly outline that duty.