

# Litigation

## VIRGINIA CAPABILITIES

Litigation in Virginia is well known for presenting complex challenges for both plaintiffs and defendants, at both the federal and the state levels. The U.S. District Court for the Eastern District of Virginia has earned the nickname of the "Rocket Docket" for its history of disposing of cases quickly. On average only five months pass from initial filing to disposition. Even cases that go to trial are tried within an average of eight months. The judges of the Eastern District maintain this rapid pace by employing local rules that limit discovery, compel objections to written discovery requests within 15 days of service, require enhanced trial preparation by admitting all exhibits before trial, rarely allow continuances, and permit no more than one expert witness in any field.

### **THE EASTERN DISTRICT REWARDS THE PREPARED**

While the Eastern District has a reputation as being a defendant-friendly venue because of its expedited procedures and Virginia's statutory limit on punitive damages of \$350,000, it can also be advantageous to a plaintiff that has carefully developed its case before filing suit and is well prepared for the speed of the pretrial process. Local counsel is also essential because the rules require local counsel to accompany foreign counsel in all appearances before the court and to sign all pleadings so that the court is not forced to reschedule motions and other matters if out-of-state lead counsel is unavailable.

### **DISTINCTIVE ASPECTS OF VIRGINIA STATE COURT**

Virginia's state courts are also unusual in several ways. For example, until January 1, 2006, Virginia maintained the separation between courts of law and equity that existed at the federal level until 1938. While new Part Three of the Rules of the Supreme Court of Virginia creates for the first time a single form of action in Virginia, called a "civil action," the historical distinctions between law and equity are preserved in all respects concerning the substance of equitable claims and defenses, rights of action, limitations principles and the powers and limits on the courts in entertaining such actions. Of course, Virginia courts will also continue to rely heavily on the common law and traditional procedural devices, such as the "demurrer" and "motion craving oyer" remain unaltered. Additionally, while a new "jury demand" procedure has been instituted, the right to demand a jury trial in actions at law in which a jury is available are preserved, while actions sounding in equity will continue to be heard without a jury. Moreover, depositions still may not be used in motions for summary judgment unless all parties agree to the use.

### **PERKINS COIE EXPERIENCE**

For these reasons, it is important for both the plaintiff and defense to carefully develop their cases and to retain knowledgeable local counsel. Perkins Coie has litigators admitted to the Supreme Court of Virginia, the U.S. District Court for the Eastern District

of Virginia, and the U.S. Bankruptcy Court for the Eastern District of Virginia. Our Virginia litigators are backed by the full experience and knowledge of our 200+ attorney litigation practice group.

