

1973

Virginia Procedure (January 16, 1973)

William & Mary Law School

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VIRGINIA PROCEDURE

Mr. Phelps

January 16, 1973

QUESTION NO. 1:

1. What is the first step in perfecting an appeal and within what time must it be done?
2. When must a transcript of the evidence or a written statement of facts be filed?
3. Is the judge required to sign the transcript or written statement?
4. When is the record transmitted to the Supreme Court of Virginia by the Clerk of the trial court?
5. When does the petition for appeal have to be filed?

QUESTION NO. 2:

1. When will the court order physical examination of a plaintiff or defendant?
2. How does the party examined obtain prior to trial the report of the physician when an order for physical examination is made by the court?
3. Can the report be offered in evidence?
4. As defendant's counsel how do you obtain a copy of the report of the personal physician of the plaintiff made to the plaintiff in the course of treatment of a spinal injury two years before the spinal injury he now claims resulted from an automobile accident caused by your client? What kind of showing is necessary?
5. Can you get any information about a doctor's report where he examines a person for purposes of testifying at a trial?

QUESTION NO. 3:

An attorney refused to continue to take depositions unless his client executed negotiable notes covering a changed contract with respect to fees. The lower court held this to be duress as a matter of law precluding recovery by the attorney in his action on the notes. The attorney requested an instruction on quantum meruit which the court refused to give. At the conclusion of the evidence and after both sides had rested, plaintiff attorney moved to amend the motion for judgment to include a claim under an oral contract and a claim for damages for the balance of the fee that is legally due. The court overruled the motion. Discuss the problem and state what you think will be the view of the Supreme Court on appeal.

QUESTION NO. 4:

A substitute judge of a municipal court issued a contempt warrant charging a lawyer with contempt for failure to appear in a case before the judge. What circuit courts, if any, have jurisdiction to issue an injunction against the hearing of the warrant? Explain.

QUESTION NO. 5:

Discuss briefly issue out of chancery and trial by jury of a plea in equity.