1. **Minimum liability limits**

   $25,000/$50,000/$20,000

2. **Negligence laws (Is the jurisdiction a pure contributory negligence state; what type of comparative fault is applicable, etc?)**

   Virginia is a contributory negligence state. Contributory negligence is a complete defense that prevents a party from recovery for damages if the party contributed in any way to the injury. The contributory negligence of the plaintiff must be a proximate cause of the accident to prevent the plaintiff from recovering.

3. **Bodily Injury Statute of Limitations**

   Two (2) years.

4. **Property Damage Statute of Limitations**

   Five (5) years.

5. **Are punitive damages insurable in the jurisdiction?**

   Yes, in cases of personal injury and death. This includes willful and wanton negligence but excludes intentional acts.

6. **Is there an intrafamily immunity defense?**

   The intrafamily immunity defense bars recovery by an unemancipated child from their parent for negligence in non-automobile and non-business related situations, as well as intentional, willful, or malicious torts (except where the tort results in the child’s death). There is no interspousal immunity.

7. **Is there a bodily injury damage threshold? If so, what is it?**

   No.
8. What are the quick rules on Subrogation MP/PIP?

No MP/PIP subrogation permitted for medical expenses paid.

9. Are there no fault laws in the jurisdiction?

No.

10. Is the customer’s insurance primary?

Yes.

11. Is there a seat belt defense?

No.

12. Is there a last clear chance defense?

Yes, in two instances: (1) when a plaintiff has negligently placed himself in a position of peril from which he is physically unable to remove himself; and (2) when a plaintiff has negligently placed himself in a position of peril from which he is physically able to remove himself but is unconscious of the peril.

13. Is there an assumption of risk defense?

Yes.

14. Is there a UM requirement?

Yes. The default UM limits are equal to the insured’s liability limits unless the insured rejects the additional coverage and notifies the insurer. In such case, the UM coverage is equal to the state minimum limits.

15. Is there a physical contact requirement?

There is no physical contact requirement, provided the plaintiff can demonstrate some physical manifestation of fright or shock caused by the defendant’s negligence.

16. Is there a mandatory ADR requirement?

No.

17. Are agreements reached at a mediation enforceable?

Yes, subject to the terms of the settlement agreement. The settlement agreement will be enforceable as any other contract. With the consent of the parties, the court will incorporate a
written agreement arising from a mediation into its final decree so long as it does not violate law or public policy.

18. What is the standard of review for a new trial?

If a verdict is supported by sufficient evidence and is reached in a fair and impartial trial, it cannot be disturbed. Whether to grant a new trial is in the judge’s discretion and can occur when damages are excessive or inadequate or when there is evidence discovered after trial.

19. Is pre-judgment interest collectable? If so, at what rate?

Yes, if requested and awarded by the trier of fact, which also sets the date from which it is awarded. The rate is 6%.

20. Is post judgment interest collectable? If so, at what rate?

Yes, at a rate of 6%.

21. Is there a workers compensation exclusive remedy defense?

Yes, with an exception for sexual assault and gradually incurred injuries caused by cumulative events.

22. Is the doctrine of joint and several liability applicable?

Yes.

23. Is there a self critical analysis privilege?

Pursuant to statute, communications in the medical community regarding peer and quality reviews are protected. There is no case law extending the privilege outside of the medical context.

24. Is accident reconstruction data admissible?

Accident reconstruction evidence is rarely admissible in Virginia because it invades the province of the jury.

25. What is the rule on admissibility of medicals paid/reduced vs. total bills submitted?

A plaintiff may submit the total bills. Because Virginia applies the collateral source rule, evidence regarding reduced rates or amounts actually paid is inadmissible.
26. **What is the jurisdiction’s rule on offers of judgment?**

   While not an offer of judgment as provided by the Federal Rules of Civil Procedure, the Virginia Code provides that a defendant may pay into court a sum of money on account of what is claimed and plead that he is not indebted to the plaintiff or that the plaintiff has not sustained damages to an amount greater than that sum. The plaintiff may then accept the money as full or partial satisfaction. If the plaintiff accepts the money as full satisfaction, the plaintiff may then have judgment for his costs. If he accepts the money as partial satisfaction and then judgment is ultimately entered in favor of the defendant, the defendant can recover the court costs. Unlike the federal rule, Virginia’s offer of judgment statute does not place the plaintiff at risk of owing substantial costs. It allows for the recovery of minimal costs such as filing fees.

27. **What is the jurisdiction’s rule on spoliation of evidence?**

   There is no independent cause of action for spoliation of evidence. Nevertheless, Virginia courts may impose civil and evidentiary sanctions when a party destroys or fails to preserve evidence, including granting an adverse inference.

28. **Are there damages caps in place?**

   Virginia imposes a cap on damages in medical malpractice cases. For claims arising out of acts or omissions prior to August 1, 1999, the damage cap is $1 million. For acts or omissions on or after August 1, 1999 and before July 1, 2000, the cap is $1.5 million. The cap increases by $50,000 every July 1 through July 1, 2031, bringing the final cap to $3 million for acts or omissions after July 1, 2031. Punitive damages in all cases are limited to a total amount of $350,000 against all defendants.

29. **Is CSA 2010 data admissible?**

   There are no cases on point. To be admissible, the data would have to meet all evidentiary and reliability standards.

30. **Briefly, does the jurisdiction have any unique rules on electronic discovery?**

   Rules of Court provide that a party need not provide discovery of electronically stored information from sources the party identifies as not reasonably accessible because of undue burden or cost. On a motion to compel or for a protective order, the movant must show that the information is not reasonably accessible because of undue burden or cost. The court may nonetheless order discovery from such sources if the requesting party shows good cause. The court may specify conditions for discovery, including allocation or reasonable costs.

31. **Is the sudden emergency doctrine recognized in the jurisdiction?**

   Yes.
32. **Are there any rules prohibiting or limiting the use of the reptile theory at trial?**

   a) Golden Rule argument not permitted.

   Golden Rule argument is not permitted in Virginia. Golden Rule argumentation can be cured with an instruction from the Court. Opposing counsel must object to improper Golden Rule argumentation and ask for a ruling from the Court in order to preserve the issue for appeal.

   b) Application of Rules 401, 403 and 404 to prohibit reptile theory arguments regarding general safety rules/regulations, potential harm to the public and endangering the public/community.

   Rules 2:401, 2:403 and 2:404 of Virginia’s Rules of Evidence closely mirror their federal equivalents. Any reptile theory-type argument is therefore subject to objections on the grounds that it is not relevant, is prejudicial, is confusing, is cumulative, and/or does not fall under an exception to the prohibition of the introduction of character evidence.

33. **What are the jurisdictional limits of the jurisdiction’s civil courts?**

   The Small Claims divisions of General District Courts in Virginia have jurisdiction over claims up to $5,000 (exclusive of interest). General District Courts have exclusive jurisdiction over actions where the amount of the claim does not exceed $4,500 (exclusive of interest or attorney’s fees). General District Courts have concurrent jurisdiction with Circuit Courts for claims exceeding $4,500 but not exceeding $25,000 (exclusive of interest or attorney’s fees). Circuit Courts have exclusive jurisdiction over claims exceeding $25,000 (though the $25,000 limit for General District Court does not apply to actions for unlawful entry or detainer).

34. **Are state judges elected or appointed?**

   Appointed.