

TABLE OF CONTENTS

Chapter 1 ATTORNEY-CLIENT RELATIONSHIP	1
1.1 Initial Client Interview Checklist.....	1
1.2 Fee Agreement Letter	33
1.3 Memorandum of Advice to Client	36
1.4 Release of Information Form	40
1.5 Codefendants' Conflict Waiver.....	41
1.6 Cooperative Defense Agreement.....	42
1.7 Motion to Withdraw as Counsel	45
1.8 Order Permitting Withdrawal as Counsel	47
Chapter 2 ARRAIGNMENT AND BAIL	49
2.1 Questionnaire for Bail Information.....	49
2.2 Motion to Set/Reduce Bond	62
2.3 Motion for Bond after Bail Initially Denied	64
2.4 Motion to Amend Bond.....	66
2.5 Order Amending Recognizance Bond	68
2.6 Appeal of Bond Determination	70
Chapter 3 MOTIONS TO DISMISS.....	73
3.1 Affidavit and Agreement Based Upon Accord and Satisfaction.....	73
3.2 Motion to Dismiss Based on Accord and Satisfaction.....	75
3.3 Motion to Dismiss—Statute of Limitations	77

TABLE OF CONTENTS

3.4	Motion to Dismiss—Not a Lesser Included Offense.....	79
3.5	Motion to Dismiss Indictment on Constitutional Grounds	81
Chapter 4 BILLS OF PARTICULARS		83
4.1	Motion for a Bill of Particulars Pursuant to Section 19.2- 230	83
4.2	Motion for Bill of Particulars Pursuant to Section 19.2- 266.2	85
Chapter 5 MOTIONS TO SUPPRESS OR LIMIT EVIDENCE.....		91
5.1	Motion to Suppress; Motion in Limine.....	91
5.2	Notice and Motion to Suppress.....	93
5.3	Motion to Suppress Unlawful Pat-Down Evidence	96
5.4	Motion to Suppress—Unlawful Search of Residence	100
5.5	Memorandum in Support of Motion to Suppress Evidence from Unlawful Search of Residence.....	102
5.6	Memorandum in Support of Motion to Suppress Evidence from Unlawful Search of Computer.....	107
5.7	Memorandum in Support of Motion to Suppress Evidence from Warrantless Search	115
5.8	Memorandum in Support of Motion to Suppress Evidence from Unlawful Stop	119
5.9	Motion in Limine to Prevent Prosecutorial Comment ...	124
5.10	Motion in Limine to Prevent Cross-Examination	126
5.11	Motion to Quash Search Warrant	128
5.12	Motion in Limine—Introduce Defendant’s Whole Statement.....	131
5.13	Motion to Suppress Defendant’s Statements.....	133

TABLE OF CONTENTS

5.14	Motion to Suppress Statements—Long Form	135
5.15	Motion in Limine to Preclude Testimony Regarding Collateral Evidence	138
5.16	Motion in Limine to Exclude 911 Tape	140
5.17	Motion in Limine to Limit Presentation of Photographs.....	142
5.18	Motion to Suppress Statement and Any Evidence Recovered as a Result of Statement by Juvenile Defendant .	144
Chapter 6 IDENTIFICATION PROCEDURES		149
6.1	Motion for Non-Suggestive Identification Procedure	149
6.2	Motion to Suppress Unduly Suggestive Identification..	154
6.3	Memorandum Based on New Jersey v. Henderson	156
Chapter 7 DISCOVERY.....		179
7.1	Notice and Motion to Clarify Commonwealth’s Discovery Obligations	179
7.2	Motion for Discovery and Inspection—Short Form	182
7.3	Motion for Discovery and Inspection—Long Form	185
7.4	Defendant’s Motion to Compel.....	195
Chapter 8 EXPERTS		197
8.1	Motion for Appointment of Experts.....	197
8.2	Memorandum in Support of Motion for Appointment of Experts.....	199
8.3	Motion for Appointment of Mental Health Expert	203
Chapter 9 PRELIMINARY HEARINGS.....		205
9.1	Motion for Closure of Preliminary Hearing	205

TABLE OF CONTENTS

Chapter 10 CONTINUANCES	209
10.1 Motion for Continuance	209
10.2 Continuance Order.....	211
 Chapter 11 SUBPOENAS, NOTICES, AND OTHER PROCESS.....	213
11.1 Notice of Motion	213
11.2 Petition for Certificate for Out-Of-State Witness.....	215
11.3 Certificate for Attendance of Out-Of-State Witness	218
11.4 Order to Secure Attendance of Out-Of-State Witnesses	220
 Chapter 12 PLEAS	223
12.1 Defendants Pleading Guilty/No Contest-Waiver of Rights Form	223
12.2 Form 7. Suggested Questions to Be Put by the Court to an Accused Who Has Pleaded Not Guilty (Rule 3A:8).....	229
12.3 Form 11. Misdemeanor Proceedings in District and Circuit Courts (Rule 3A:8(b)(2); Rule 7C:6; and Rule 8:18)....	231
 Chapter 13 JURIES.....	237
13.1 Juror Questionnaire.....	237
 Chapter 14 RECUSALS	249
14.1 Motion for Recusal	249
 Chapter 15 SEPARATE TRIALS.....	251
15.1 Motion for Separate Trial as to Charges.....	251
15.2 Motion for Separate Trial as to Codefendant	253
15.3 Order Granting Separate Trial from Codefendant.....	255

TABLE OF CONTENTS

Chapter 16 SENTENCING	257
16.1 Contents of Sentencing Orders	257
Chapter 17 MOTIONS TO RECONSIDER	261
17.1 Motion to Reconsider	261
Chapter 18 EXPUNGEMENT OF CRIMINAL RECORDS	263
18.1 Petition for Expungement of Criminal Record	263
18.2 Order of Expungement	266
Chapter 19 APPEALS	269
19.1 Notice of Appeal from Trial Court (Rule 5A:6)	269
19.2 Bond for Costs and Suspension on Appeal	271
19.3 Affidavit to Withdraw a Criminal Appeal	273
19.4 Additional Security for Appeal	275
19.5 Demand for Hearing by Three-Judge Panel	277
19.6 Motion for Extension of Time to File Transcripts	279
Chapter 20 WRITS OF ACTUAL INNOCENCE	283
20.1 Petition to the Supreme Court of Virginia for a Writ of Actual Innocence	283
20.2 Petition to the Court of Appeals of Virginia for a Writ of Actual Innocence Based on Nonbiological Evidence	299
Chapter 21 DUI AND OTHER SERIOUS TRAFFIC OFFENSES ...	317
21.1 Client Intake and Interview Forms	317
21.2 Sample Letter Transmitting Fee Agreement	333
21.3 Sample Fee Agreement Form	334

TABLE OF CONTENTS

21.4 Motion to Suppress Evidence and Memorandum in Support.....	336
21.5 Motion to Suppress	341
21.6 Memorandum in Support of Motion to Suppress	343
21.7 Response to Memorandum in Support of Suppression of Evidence	349
21.8 Notice and Motion for Discovery-General District Court	352
21.9 Order for Discovery-General District Court	354
21.10 Defendant's Motion to Compel Discovery-General District Court.....	357
21.11 Model Circuit Court Discovery Order	359
21.12 Motion for Bill of Particulars (General District Court)	371
21.13 Motion for Bill of Particulars (Circuit Court)	374
21.14 Objection to Introduction of Certificate of Analysis ...	377
21.15 Sample Letter to Department of Forensic Science.....	379
21.16 Sample Closing Letter (Long form).....	380
21.17 Sample Closing Letter (Short form).....	383
 Chapter 22 JUVENILE PROCEEDINGS	 385
22.1 Letter to Client's Parent or Parents When Client Is Detained	385
22.2 Letter to Client's Parent or Parents When Client Is Free	386
22.3 Initial Client Interview Form	387
22.4 Initial Parent Interview Form.....	399
22.5 Medical Records Release.....	403

TABLE OF CONTENTS

22.6	Request and Authorization for Educational Records ..	404
22.7	Sample Transfer/Social History Report	405
22.8	Sample Evaluation Summary	419
22.9	Example of Psychological Evaluation.....	429
22.10	Sample Substance Abuse Evaluation.....	432
22.11	Petition Pursuant to § 16.1-285.1(F)	436
22.12	Serious Offender Progress Report	438
Chapter 23 CAPITAL MURDER CASES		445
23.1	Motion for Change of Venue	445
23.2	Memorandum in Support of Motion for Change of Venue	447
23.3	Motion for a Bill of Particulars	451
23.4	Memorandum in Support of Motion for a Bill of Particulars	453
23.5	Motion for Discovery and Inspection.....	458
23.6	Memorandum in Support of Discovery Motion	469
23.7	Request for Forensic Analysis (Motion for Testing of Human Hair)	472
23.8	Order Directing Forensic Analysis (Testing of Human Hair)	476
23.9	Motion for Appointment of Qualified Experts	478
23.10	Motion For Ex Parte Hearing (Experts).....	486
23.11	Attorney Affidavit for Motion for Ex Parte Hearing (Experts)	493
23.12	Motion for Appointment of Expert Investigator	497
23.13	Memorandum in Support of Motion for Appointment of an Expert Investigator.....	499

TABLE OF CONTENTS

23.14 Motion for Appointment of an Expert on Conditions of Incarceration And/Or to Proffer Evidence on Conditions of Incarceration	502
23.15 Memorandum in Support of Motion for Appointment of an Expert on Conditions of Incarceration	504
23.16 Memorandum of Law Regarding Defendant's Right to Make Ex Parte Applications	519
23.17 Motion for Individual and Sequestered Voir Dire	530
23.18 Memorandum in Support of Motion for Individual and Sequestered Voir Dire	532
23.19 Motion for Additional Peremptory Challenges	535
23.20 Memorandum in Support of Motion for Additional Peremptory Challenges	537
23.21 Motion to Dismiss Jury and Re-Impanel Venire	539
23.22 Motion in Limine to Have the Defendant Presented in the Courtroom Not in Handcuffs and Jail Uniform	541
23.23 Motion in Limine to Limit the Presence of Law Enforcement Personnel in the Courtroom	543
23.24 Motion to Enjoin Law Enforcement Officers from Wearing Uniforms in Courtroom While Sitting as Spectators, or Grant Other Appropriate Relief	545
23.25 Memorandum of Law in Support of Motion to Enjoin Law Enforcement Officers from Wearing Uniforms in the Courtroom as Spectators	547
23.26 Motion to Declare the Virginia Capital Murder and Death Penalty Statutes Unconstitutional	551
23.27 Memorandum in Support of Defendant's Motions to Declare the Virginia Capital Murder and Death Penalty Statutes Unconstitutional and to Prohibit the Imposition of the Death Penalty	553
23.28 Motion to Declare the "Continuing Threat" Aggravating Factor Unconstitutional in Light of Lawlor v. Commonwealth	600

TABLE OF CONTENTS

Chapter 24 CIVIL COMMITMENT OF SEXUALLY VIOLENT PREDATORS.....	617
24.1 Respondent’s First Interrogatories and Request for Productions of Documents	617
24.2 Petitioner’s Response to Discovery Order	627
24.3 Discovery Order	631
24.4 Sexually Violent Predator Evaluation.....	633
