

TO: All Members of Norfolk and Portsmouth Bar Association

FROM: Hon. Robert G. MacDonald, Chief Judge
Chesapeake General District Court

DATE: August 16, 2019

RE: Issuance of subpoenas in automobile accident cases

In automobile accident cases, many attorneys and defendants appear on the first return date merely to set a date for trial, so that the witnesses/victims can be subpoenaed to appear. Concerns have been raised by the Bar, as well as defendants, on our current procedure. In response to the concerns, the Court is modifying the procedure relating to traffic summonses involving an automobile accident.

The following procedure will be effective on January 1, 2020:

When an officer issues a summons at the scene of accident, they will subpoena any necessary witness to appear in court at the same time. The officer will provide the defendant with a copy of DC-217, VIRGINIA PREPAYABLE OFFENSES INFORMATION SHEET (See attached). The DC-217 contains language advising the defendant, "If you were involved in an accident and desire to plead NOT GUILTY and have your case heard on the date set, please notify the court by checking the not guilty box and return this form to the court within 7 calendar days..." For those defendants who notify the court and do not request a continuance, the case can be heard on the original trial date. For those defendants who do not notify and simply appear in court, the case can proceed on the original trial date. Only in those instances where the defendant wishes to plead not guilty and wishes to change the date will the witnesses have to be called off and re-subpoenaed.

If you have any questions, please contact us.

Thank you.