

§ 16.1-88. Procedure when plaintiff sues on sworn claim.

If a civil action in a general district court is upon a contract, express or implied, for the payment of money, or unlawful detainer pursuant to § 55-225 or § 55-248.31 for the payment of money or possession of the premises, or both, or is brought by the Commonwealth or any political subdivision or agency thereof for the collection of taxes or to enforce any other obligation for the payment of money, an affidavit and a copy of the account if there be one and, in actions pursuant to § 55-225 or § 55-248.31, proof of required notice may be made and served on the defendant in accordance with § 8.01-296 with the warrant or motion for judgment as provided in § 8.01-28 for actions at law, whereupon the provisions of § 8.01-28 shall be applicable to the further proceedings therein. The affidavit and the account if there is one and proof of appropriate notice may be attached to the warrant or motion, in which event the combined papers shall be served as a single paper.

(1956, c. 555; 1973, c. 440; 1991, c. 503.)

§ 8.01-28. When judgment to be given in action upon contract or note unless defendant appears and denies claim under oath.

In any action at law on a note or contract, express or implied, for the payment of money, or unlawful detainer pursuant to § 55-225 or § 55-248.31 for the payment of money or possession of the premises, or both, if (i) the plaintiff files with his motion for judgment or civil warrant an affidavit made by himself or his agent, stating therein to the best of the affiant's belief the amount of the plaintiff's claim, that such amount is justly due, and the time from which plaintiff claims interest, and (ii) a copy of the affidavit together with a copy of any account filed with the motion for judgment or warrant and, in actions pursuant to § 55-225 or § 55-248.31, proof of required notices is served on the defendant as provided in § 8.01-296 at the time a copy of the motion for judgment or warrant is so served, the plaintiff shall be entitled to a judgment on the affidavit and statement of account without further evidence unless the defendant either appears and pleads under oath or files with the court before the return date an affidavit or responsive pleading denying that the plaintiff is entitled to recover from the defendant on the claim. A denial by the defendant in general district court need not be in writing. The plaintiff or defendant shall, on motion, be granted a continuance whenever the defendant appears and pleads. If the defendant's pleading or affidavit admits that the plaintiff is entitled to recover from the defendant a sum certain less than that stated in the affidavit filed by the plaintiff, judgment may be taken by the plaintiff for the sum so admitted to be due, and the case will be tried as to the residue.

(Code 1950, § 8-511; 1954, c. 610; 1960, c. 426; 1977, c. 617; 1983, c. 136; 1991, cc. 56, 503.)