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Course of Dealing and Contract Modification in Virginia: How Conduct Can Support Modification of a Written Contract's Terms

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Introduction

It is well-settled law in Virginia that the plain terms of contracts must be enforced as written. However, contracting parties "may evince a mutual intent to modify the terms of their contract" through a "course of dealing." That means that a party can argue that a court should not apply the written terms of an agreement when the parties have modified the contract terms through a course of conduct. To give effect to any alleged modification, however, the party asserting the change must satisfy several rigorous requirements. Additionally, once it is shown that a contract should be modified by a course of dealing, questions may remain as to the permissible scope of any modification. This article explores the effect of a "course of dealing" on contract modification practices in Virginia and how any such claims could be advanced and contested under Virginia law.

Click here to read the full article in Virginia Lawyer Magazine.

Chris Porter and Martha G. Dean, 2025 summer associates with Troutman Pepper Locke who are not admitted to practice law in any jurisdiction, also contributed to this article.

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