

Courts of the County of Chesterfield

Hon. Michael C. Allen
Chesterfield Circuit Court

Committee members met with Chief Judge Michael C. Allen. Judge Allen was very complimentary of the bar as a whole. He has always felt that the Richmond area enjoys a great bar – a feeling that has only been reinforced since he became a judge. He feels grateful and privileged to be able to serve on the Chesterfield Circuit Court, especially with the lawyers we have in this area. He believes the attorneys who practice before him help the court to understand the facts and issues on which he is to rule. He appreciates the civility and collegiality amongst the attorneys and with the court, and believes this plays a major role in getting disputes settled. He feels it is important that younger lawyers be trained to practice in this tradition of collegiality. He appreciates the efforts of the RBA in getting this information out to its members.

Judge Allen stated that Chesterfield’s docket continues to grow, especially in the areas of domestic relations and drug related criminal cases. Domestic relations cases have become much more complex over the years because of the many issues related to the marital estate. In regards to the criminal docket, he believes 75-80% of all criminal cases are directly or indirectly related to drugs. The cases range from using or possessing drugs, larceny to get the funds to buy the drugs, or probation violations from a prior drug conviction. Judge Allen continues to praise the efforts of Chesterfield’s drug court, which he believes is one of the best such programs in the country. The civil docket has grown only slightly, which Judge Allen attributes to the greater use of alternative dispute resolution to resolve cases.

Judge Allen addressed several issues regarding trials and discovery. First, he discussed the goal of concluding all cases on the docket within twelve months of filing. He understands that this cannot always happen, but he appreciates all efforts to make it so. He understands that continuances are sometimes appropriate, and he will grant them where there are reasonable grounds. Second, when discovery motions are heard, he strongly recommends, as the Rules require, a good faith effort by counsel to resolve these issues prior to the hearing. These efforts, he has found, generally resolve most disputes. The issues left to be heard are usually very specific and can be handled more easily. In reviewing motions to compel, he looks to the Rules, while remaining cognizant of issues of reasonableness and any prejudice to the parties. Third, he mentioned the scheduling of motions and lawyers “piggybacking” their motion on an already scheduled hearing date. A lawyer will set a hearing on a motion and set aside an appropriate amount of time for that motion. Opposing counsel attempts to add one or more additional motions onto the same time slot. Judge Allen encouraged lawyers to confer before engaging in such practice. If sufficient time is not available on the previously scheduled hearing date, reschedule the motions or set a separate hearing date for the later filed motions.

Judge Allen discussed the court’s use of retired judges to mediate cases. The process is free to the participants and the clients get an independent view of their case prior to their trial date. In his opinion, the process has been successful and he recommends this practice.

Hon. Philip V. Daffron
Chesterfield General District Court

A committee member met with Chief Judge Philip V. Daffron. Overall, the judges in his court were generally pleased with the performance and caliber of the attorneys that appear before them. Judge Daffron indicated that they were on a "high cycle" and that things were running smoothly. He had nothing negative to say about the attorneys. In general, he suggested that if a continuance is needed that the attorneys communicate so that victims and witnesses are not inconvenienced. He encouraged all the attorneys to keep up the good work!

Hon. Edward A. Robbins, Jr.
Chesterfield Juvenile and Domestic Relations District Court

A committee member met with Chief Judge Edward A. Robbins, Jr. The court is pleased overall with the caliber and professionalism of the attorneys appearing before its judges. It is their consensus that the attorneys who regularly practice in this court are doing an excellent job. Judge Robbins offered comments and suggestions to further improve the efficacy of the court and the relationship between the court and the bar.

Continuances of Contested Cases: Contested matters are criminal or civil matters that require a sixty minute or longer hearing. Counsel can speed up the process of bringing a contested case to trial by making a request for a contested time slot and coordinating a date and time with opposing parties and the clerk as soon as possible. Once a contested date and hour is set, all parties and counsel should expect the trial to occur on that date. The Clerk's office is not authorized to continue contested cases docketed for sixty minutes or longer, even if all parties are in agreement. Only a judge can continue a contested matter.

Case Preparation: In cases involving child support, attorneys should run the child support guidelines prior to appearing before the court. The court should not be the first to raise the issue of the child support guidelines with the parties. If the attorneys do not believe their financial information is complete, they should bring whatever they have. In criminal and delinquency cases, the defense attorney should prepare a disposition plan to present to the court in the event their client is convicted. The more specific the plan is, the greater the likelihood that the court will follow part or all of it. The plan should specify when, where and how it would work, and, in the current budget environment, how it would be funded. At disposition, simply stating "the defense submits" is unhelpful, and counsel foregoes the last best opportunity to advocate effectively for the client.

Court-Appointed Counsel: The court appreciates the willingness of many members of the bar to serve as counsel for indigent persons. Counsel should be mindful that if they agree to serve as court-appointed counsel for a particular date and judge, the court will appoint all non-conflicting matters to that attorney for that date and judge. Therefore, the court requires that counsel refrain from undertaking or scheduling any other matters for that date or with any other judge. Counsel are expected to understand and comply with the Standards of Practice for Indigent Defense Counsel. Counsel are reminded that Virginia Code §19.2-163 requires submission of payment vouchers within 30 days of the completion of all proceedings.

Orders: If you anticipate some issue with the accuracy or preparation of a sketch order by counsel, be sure to make an affirmative request to endorse the order before it is entered. If you find a sketch order does not comport with the court's ruling, state your written objection on the sketch order or otherwise with sufficient clarity for the court to understand and correct the error.

Clerk's Office: The court has a high degree of confidence in the Clerk's office and its personnel, but understands that there will be problems at time between attorneys and the court's personnel. The court invites, encourages, and requests that issues be brought to its attention as they arise. The first step in solving any problem is to speak with the pre-court or post-court supervisor, as the case may be. If the problem remains unresolved, counsel should ask to speak with the Clerk of Court, Frank T. Mountford. Mr. Mountford will generally get back to attorneys the same business day. If the problem still remains unresolved, counsel are requested to make an appointment to speak with the Chief Judge about the matter.

Assignment of Judges: The Chief Judge does not have the authority to reassign a judge from hearing a case, except pursuant to lawful authority. There is no distinction between a substitute judge, a retired judge and a regularly sitting judge in this regard. In a particular case, any issue concerning whether a judge should hear the case should be raised with the affected judge directly by use of a motion to recuse with particular reference to both the facts and law in support of such a motion.

SPECIAL NOTE REGARDING THE HON. JERRY HENDRICK, JR.

Judge Hendrick was released from the hospital in December of 2009, and is rehabilitating. The present expectation is that Judge Hendrick will to return to his judicial duties sometime in the summer of 2010. Judge Hendrick appreciates the calls, cards and support that he has received during his illness. He also asks for the support of the bar in helping the court to cope with the difficulties caused by shortages in staff and the necessity for obtaining substitute judges. Retired Judges Boice, Durden and Laney have provided the lion's share of judicial coverage for Judge Hendrick thus far and it is planned that they will continue to do so.