

Hon. Dennis W. Dohnal and Hon. M. Hannah Lauck
United States Magistrate Judges
Eastern District of Virginia, Richmond Division

Judge Dohnal

Judge Denny Dohnal will mark his tenth anniversary as a magistrate judge on January 30, 2010. His best advice to lawyers is to follow the Golden Rule – treat others like you wish to be treated. If in doubt about what to do in a particular situation, Judge Dohnal strongly recommends that lawyers seek guidance from experienced lawyers.

Judge Dohnal is impressed and pleased with how local lawyers conduct themselves when appearing before him, especially when they are acting as local counsel for out-of-state counsel. Local lawyers are very helpful in assisting out-of-state lawyers comply with the local rules and adjust to the rocket docket. Judge Dohnal usually uses local counsel as his contact persons, although upon request in certain situations he may be willing to deal with out-of-state counsel directly.

Less experienced lawyers should not hesitate to ask what a particular judge's preference is in terms of procedural matters. Experienced lawyers or law clerks are reliable sources of information. Judge Dohnal handles some matters differently from his colleagues. For instance, counsel can agree to extend a deadline, without seeking Judge Dohnal's approval, as long as the trial date does not change. Judge Dohnal also encourages counsel to go as far as they can in working out objections to deposition testimony. If counsel cannot resolve an issue, they can call Judge Dohnal and get a ruling, rather than having to adjourn the deposition and file a motion to compel.

In terms of expert designations, Judge Dohnal advises lawyers to be ever-mindful of what the rules require in terms of expert disclosure. Counsel should review expert disclosures as their cases progress and supplement disclosures as needed. Judge Dohnal distinguishes between treating physicians, who are not specifically retained to provide expert opinions, and non-treating physicians. If a treating physician is called only to testify about his treatment of a patient, the physician need not be designated as an expert witness.

Judge Dohnal likes the new courthouse and its technological amenities. He strongly suggests that lawyers familiarize themselves with courtroom technology before trying to use it and bring their own IT person with them in case problems arise when utilizing the technology.

The court's mediation program continues to grow and has a good success rate. Judge Dohnal handled 59 mediations between January 1 and November 12. Litigants settled more than 80% of the matters that Judge Dohnal mediated. According to Judge Dohnal, only McCammon Mediation mediates more cases locally than the Richmond federal district court. In addition to using mediation as a tool to resolve disputes, Judge

Dohnal noted that a program sponsored by the Richmond Bar Association and headed by David Anthony has been very helpful in providing legal assistance to pro se litigants involved in settlement conferences.

Judge Dohnal is excited about the Re-Entry Court. Probation screens non-violent offenders, eligible for supervised release, for participation in the program. The year-long program, which is divided into four phases, is designed to help individuals who have done time stay out of prison. After being recommended for the program, individuals must consent to participate and sign a contract obligating them to comply with program requirements. If participants successfully complete the program, one year is subtracted from their supervised release. If they fail, jail time can be imposed. In the first phase of the program, Judge Dohnal sees participants every week.

The two magistrate judges divide various dockets between them. Judge Dohnal handles matters originating from the Veterans Administration hospital and Richmond battlefields, as well as cases involving migratory bird and Social Security claims. He observed that there is something new everyday and, from the stories Judge Dohnal tells, his observation is an understatement.

Judge Lauck

Judge Hannah Lauck will complete her fifth year on the bench as a magistrate judge in May 2010. Like Judge Dohnal, she is pleased with the new courthouse, which she observed took two acts of Congress to complete. She is also pleased with the way local lawyers comport themselves when appearing before her. According to Judge Lauck, there is a spirit of collegiality among local lawyers that is lacking elsewhere. In her opinion, local lawyers excel at knowing how to treat other lawyers.

Like her judicial colleagues, Judge Lauck has her own pretrial order and procedural preferences. Judge Lauck's rule on treating physicians is laid out in her pretrial order. Treating physicians are not considered experts, if all they will testify to is their care of a patient. However, Judge Lauck said if that if counsel is worried that a physician might deliver an opinion beyond the scope of treatment, by all means designate the physician as an expert. She noted that her pretrial order contains specific guidelines for designating rebuttal experts. Those guidelines are intended to relieve quandaries about whether and when to designate rebuttal experts – quandaries that Judge Lauck experienced firsthand when she was a practicing lawyer.

Judge Lauck handles about three mediations a week. Over the 80% of the cases that she mediates are resolved. She requires clients to participate in mediations and has found that oftentimes the process is cathartic for litigants, who want an opportunity to tell their stories to a judge. For that reason, and because there is no bar on hearsay evidence, pro se litigants frequently find mediations an especially rewarding experience. Judge Lauck can spend an entire day mediating one case and has some matters where the litigants regularly meet with her to advise her on their progress in connection with mediated settlement efforts.

A representative with settlement authority must participate in matters Judge Lauck mediates. If the other side does not object, a party representative can participate by telephone. Judge Lauck cautions lawyers not to get so wrapped up in meeting pretrial deadlines that they forget about discussing settlement options with their clients and opposing counsel.

In pretrial hearings involving less serious criminal cases, Judge Lauck sometimes allows witnesses to participate by telephone in order to put testimony in the record. Judge Lauck observed that some practitioners have difficulty laying a proper foundation to introduce evidence and that is something that law students need to learn how to do. So far, no lawyers have used Power Point to argue matters before Judge Lauck.

If counsel wants to extend summary judgment or expert witness deadlines in a matter pending before Judge Lauck, she requires counsel to seek leave of court. Her rationale is that her pretrial order sets tight deadlines, and altering one deadline can create unintended problems in meeting other deadlines.

Judge Lauck participates in the Re-Entry Court. She describes the program as a collaborative effort, involving the magistrate judges, the Public Defender's Office, the U.S. Attorney's Office, and participants' probation officers. The program's objective is to devote more resources "on the front end" to help keep individuals who are on supervised release, but have a high risk of recidivism, from returning to prison. So far, seven people have participated in the program. Judge Lauck noted that George Hettrick has been very helpful in finding resources to offer support to individuals who have substance abuse problems.

Judge Lauck handles the Fort Lee docket. This year she moved those proceedings from Fort Lee to the new courthouse, where her courtroom can better accommodate them. Until she moved the docket, Judge Lauck was the only judge in the Eastern District who traveled to hear matters. The Fort Lee cases often involve speeding, reckless driving and driving under the influence, but this year Judge Lauck has presided over two jury trials of Fort Lee matters.

Judge Lauck closed her meeting with Richmond Bar Association representatives by remarking that she really wants feedback from lawyers who appear before her about how she can work with lawyers to improve the administration of justice.