In its continued effort to promote the administration of justice in the Richmond area and to facilitate cooperation between the ben and the bar, the Administration of Justice Committee recently concluded its annual interviews with several of the **Honorable Judges for the Eastern district of Virginia, Richmond Division**. As in years past, the Judges were gracious with their time and spoke with candor to Committee members regarding pandemic challenges, jury trials, settlement conferences and professionalism.

**The Honorable M. Hannah Lauck
*United States District for the Eastern District of Virginia***

Judge Lauck commended the bar, especially Tara Casey, on its participation in the Pro Se Mediation Project and encouraged members to volunteer, noting the benefits of participation in the Project to the court, the litigants, and the volunteers. Judge Lauck reminded the bar that the Project allows attorneys to assist pro se litigants whose matters have been referred to the U. S. Magistrate Judges for judicial settlement conferences. The volunteer attorney chooses the areas of practice and represents the client at the settlement conference without the expectation of taking on further representation should the case not resolve at mediation. (Editor’s Note: participating in the Pro Se Mediation Project is an easy way to fulfill pro bono publico obligations under Rule 6.1 of the Rules of Professional Conduct.) Judge Lauck noted that, regardless of whether the matter is a referral from the Project, participation in judicial settlement conferences exposes junior attorneys to the courtroom, helps clients feel they have had their day in court, and benefits the attorneys and the court.

Judge Lauck mentioned that she will serve on the Steering Committee of Just the Beginning, an organization supporting minorities and under-resourced students in developing leadership skills and introducing them to law careers. Just the Beginning supports program participants as early as elementary school through the beginning of a legal career or budding interest in judicial service.

Finally, Judge Lauck spoke eloquently of the history and tradition of the Eastern District of Virginia and the high expectations of its judges. She praised the camaraderie and civility of the bar, noting that attorneys who practice successfully in the EDVA can practice successfully anywhere in the country.

**The Honorable David J. Novak
*United States District Court for the Eastern District of Virginia***

Judge Novak is very appreciative of the local bar and its members for their impressive work over the past year. Judge Novak believes that Richmond, Virginia is a wonderful place to practice law and values the professionalism and competence of its local attorneys.

Judge Novak is happy to report that the Court has worked through its backlog of cases that were postponed due to COVID-19. Judge Novak is generally setting trials seven months from the date of a scheduling conference, with limited exceptions depending on the circumstances of each case. As we move into the colder months, the Court will continue to monitor any increase in COVID-19 cases and is ready to implement protocols if need be.

As to jury selection, Judge Novak continues to utilize the death penalty jury selection procedures adopted during the onset of the pandemic, which he believes is effective for both civil and criminal trials alike. During this selection process, Judge Novak first asks general questions to a group of 16 jurors at a time, then brings each potential juror up to the stand to question each individually. This enables the Court and attorneys to focus on the individual and obtain a better sense if there would be any potential issues with each prospective juror. The Court conducts jury selection on the first day of the scheduled trial, then commences the trial the following day with no back striking permitted.

Judge Novak does not use Local Rule 7(E) and typically will rule on any motion based upon the papers. Judge Novak very rarely permits hearings on any motions unless there is a particularly unusual circumstance requiring a hearing. Judge Novak no longer uses video conferencing to conduct hearings. Judge Novak emphasizes the importance of the in-person setting for observing the parties and witnesses during court proceedings. However, Judge Novak will utilize telephone conferences for certain matters such as scheduling conferences. Most civil matters continue to be referred to a magistrate judge for a settlement conference, where the vast majority of cases generally settle.

Judge Novak encourages young attorneys to participate in the pro bono program whereby attorneys are assigned to represent pro se individuals during a settlement conference. In the event the matter does not settle, the attorney then has the option to continue representing the individual or opting out of representation. Judge Novak believes the pro bono program is a very effective program, equaling the playing field for those who may not be able to effectively participate in a settlement conference while affording young attorneys real hands-on experience. Judge Novak thanks Tara Casey from the University of Richmond Law School and Robert Angle from Troutman Pepper for their dedicated work in running this program.

Addressing the use of technology in the courtroom, Judge Novak requires attorneys to meet with the clerks before trial to make sure that each attorney understands how to use the Court’s technological equipment prior to trial. Unless otherwise ordered, the parties can schedule this meeting by reaching out directly to chambers.

While Judge Novak appreciates the local bar and its overall diligence in practice, Judge Novak cautions attorneys to be more engaged on cases where he or she is serving as local counsel. Judge Novak will not permit local counsel to sit on the sidelines of litigation. He requires that local counsel be knowledgeable of the matter and work together with any out of state counsel to instruct them on local procedure and overall atmosphere of professionalism.

Judge Novak thanks the Richmond Bar for its great work and looks forward to another successful year.

**The Honorable Roderick C. Young**

***United States District Court for the Eastern District of Virginia***

Following the COVID-19 pandemic, Judge Young shared that, things are back to normal for the most part. Generally, civil cases are set for trial six (6) to nine (9) months from the initial pre-trial conference. Although the Court has returned to in-person hearings and oral arguments, he does still conduct some initial pretrial conferences and status conferences via Zoom. However, Judge Young conducts all final pre-trial conferences in-person. Additionally, he continues the social distancing practice of utilizing headsets during jury selection for personal or sensitive questions and for bench conferences.

Judge Young is highly complementary of the local bar. He is specifically complementary of the professional courtesy and preparedness of the bar and noted that “mastering these small things” is what helps to develop a good reputation as an attorney. The “small things” include being timely, knowledgeable of the rules, demonstrating a knowledge of the legal issues, affirmatively addressing any contrary authority to your position, and being courteous to all court personnel and opposing counsel.

Like other judges in the district court, Judge Young requires joint filings on discovery disputes. In his experience, he finds that having this procedure in place encourages resolution of discovery disputes without court intervention. Even in instances when counsel are unable to fully resolve the dispute, this procedure significantly narrows the issues that the Court ultimately addresses. This not only promotes professional courtesy but also judicial efficiency.

Judge Young conducts oral arguments on an as needed basis and may order supplemental briefing where he has questions not sufficiently addressed by the papers. One specific practice pointer that Judge Young highlighted for both civil and criminal cases is that if a party is going to play and introduce a video into evidence, he requires a transcript and/or close captioning.

For younger attorneys or attorneys desiring to have more federal experience, Judge Young encourages them to participate in the Pro Se Pro Bono Mediation Project. This Project was founded by Judge Young and Judge Novak and gives attorneys an opportunity to develop and refine their negotiation and advocacy skills. Anyone interested in this program is encouraged to contact the Federal Bar Association.

**The Honorable Mark R. Colombell
*U.S. Magistrate Judge for the Eastern District of Virginia***

Judge Colombell began by commending the bar for its demeanor and professionalism, noting that attorneys appearing in federal court continue to excel in the courtroom in their knowledge of the law, their case preparation, and their civility in dealing with the court and each other.

Magistrate judges take a collaborative approach to settlement conferences and always try to help litigants leave the courthouse feeling as though they have had their day in court. He encouraged firms looking to help young associates gain experience to utilize young lawyers more in federal court proceedings. Settlement conferences are a good way for young lawyers to gain experience in court, to hone their skills interacting with judges and clients, and to gain confidence in the courthouse. Because it is often helpful to have more than one attorney appear at a settlement conference, bringing a young lawyer along is a good option for many reasons.

Judge Colombell felt that the docket has gotten back to a normal pre-Covid load in the past 12 to 18 months though jury trials seem to be trending down. However, the judges are seeing many more out-of-state *pro hac vice* counsel in cases and on pleadings, and they would like to remind attorneys practicing in the EDVA that the role of local counsel is important, if not central, to the process. Local counsel are not merely figureheads who sign and file pleadings. They must appear in-person at all settlement conferences, hearings and trials and understand the law and facts of the case.

Finally, Judge Colombell encouraged more attorneys to consent to magistrate judge jurisdiction when offered. Consenting to magistrate judge jurisdiction eases the burden on the district court judges, who are incredibly busy.

**The Honorable Summer L. Speight
*U.S. Magistrate Judge for the Eastern District of Virginia***

As the newest United States Magistrate Judge in the Eastern District of Virginia, one of the things Judge Speight enjoys most in her new position is her interaction with more members of the bar. Unlike other divisions in the Eastern District of Virginia, magistrate judges are not assigned to all civil cases, but receive referrals from the district judges. Most of her interaction with the bar are during settlement conferences; on average, she can have three (3) to four (4) in a week. In addition to settlement conferences for civil cases, Judge Speight’s docket also includes misdemeanors and social security cases. Now that the Richmond division has two magistrate judges, she will also have a civil consent docket.

Judge Speight spoke highly of the bar indicating that attorneys balance advocacy of their clients’ best interests with professionalism and courtesy very well. This extends to everyone in the courthouse. However, she recommends that local counsel educate out-of-state attorneys who may be used to more aggressive tactics about the Court’s expectations related to professionalism.

Absent exceptional circumstances, Judge Speight conducts hearings, initial status conferences, and settlement conferences in-person. Regarding settlement conferences, she finds that people are more invested in getting to a resolution when in-person. One thing that Judge Speight values and appreciates in settlement conferences is an attorney’s ability to be candid and message upfront their client’s ultimate position while protecting client confidences and advocating for their client’s best interest. She recognizes that this is a difficult balance and that it often comes with experience, but it enables her to be more effective.

Judge Speight also noted the requirement of a joint submission to resolve discovery disputes and for counsel to meet and confer in person. This procedure encourages professional courtesy, saves time, and streamlines issues for quick resolution. Although initial scheduling orders are pretty standard, Judge Speight encourages attorneys to take the time to read the order as there are differences among the judges as well as differences based on the type of case.

Judge Speight’s advice to more junior attorneys wanting to know more about federal practice is to become involved in federal pro bono projects (*i.e.,* the Pro Se Pro Bono Mediation or Pro Se Prisoner Projects). These pro bono opportunities help attorneys develop useful skills and allow them to interact with the judges.

**The Honorable John A. Gibney, Jr.**

***United States District Court for the Eastern District of Virginia***

Judge Gibney observed that the lawyers who appear in the Richmond Division of the Eastern District of Virginia are generally “Stars of the Bar” who exhibit collegiality, cooperation, and dedication to their clients. Judge Gibney noted that, although there are still instances when attorneys do not meet the standard for collegiality, those exceptions prove the general rule that the local Bar acts with a high degree of professionalism.

Judge Gibney explained that discovery disputes are rare. Judge Gibney addresses most discovery matters by telephone conference without the need for motions practice. Discovery motions may be requested by the Court following telephone conferences, but they are typically reserved for discrete issues and can usually be resolved without a hearing.

In cases where larger problems with discovery arise, Judge Gibney will sometimes engage a Special Master to address the issues in controversy. Special Masters are private attorneys who charge for their services. The appointment of a Special Master and the prospect of having to pay the Special Master’s fees often prompts the parties to resolve the dispute on their own.

Judge Gibney noted with disappointment that civil trials are rare and that case filings in the Richmond Division have decreased from previous years. Judge Gibney observed that lawyers should not be afraid to take cases through to trial and offered that, in his experience, the willingness to go to trial will often improve settlement outcomes.

Most cases continue to be referred to the Magistrate Judges for settlement conferences. The Magistrate Judges have an excellent record of resolving the cases referred to them.

Judge Gibney explained that he has discontinued the use of Zoom for hearings. While many motions can be decided on the papers, Judge Gibney noted that the Court will consider requests for hearings as an opportunity for newer lawyers to gain courtroom experience. In such cases, the parties should contact chambers to request a hearing.

Judge Gibney enjoys working with the local Bar. If lawyers who appear before the Court observe any procedures or practices that make their practice more difficult, they should bring them to the Court’s attention after the conclusion of the case. The Court welcomes such feedback.

**The Honorable Henry E. Hudson**

***United States District Court for the Eastern District of Virginia***

 Judge Hudson praised the local Bar as “excellent” and reflected that the caliber of advocacy in Richmond continues to make his job as a judge enjoyable. Judge Hudson did not have specific feedback or improvements to offer, but he offered a number of observations regarding the current state of the docket in the Richmond Division.

 Judge Hudson noted that there are very few trials in Richmond—less than a handful over the last year. He attributed the low rate of civil trials, in part, to the very effective settlement program managed by the Court’s magistrate judges. He also noted that the Divisions of the U.S. Attorney’s Office assess criminal cases a little differently, and there tend to be more criminal cases that go to trial in the Norfolk and Alexandria Divisions.

 Judge Hudson noted that the Court’s reputation as the Rocket Docket continues in most all cases, particularly on the civil side. Civil cases tend to move along and settle when they can be settled. Judge Hudson estimated that between 10 to 15 percent of civil cases are terminated or transferred on motions with the balance settling before trial.

 Regarding motions practice, Judge Hudson explained that his chambers receives on average one new motion per week. Whether the Court holds a hearing depends on the nature of the motion. Parties may contact chambers to request scheduling oral argument for a motion, but the Court will ultimately hold argument only if it deems necessary in the context of the case. Judge Hudson does not hear arguments remotely, though he will occasionally allow non-local attorneys listen in to an argument taking place in-person. Those circumstances are determined on a case-by-case basis.

 Regarding discovery, Judge Hudson noted that discovery issues are rare in routine cases and lawyers are generally good at resolving issues. He noted that exceptions can arise in more complicated cases, such as class actions, or in cases with out-of-town lawyers who are more accustomed to taking discovery issues through motions practice. He encouraged parties to sit down and attempt to resolve their issues before raising discovery issues with the Court. Judge Hudson sometimes refers discovery issues to magistrate judges.

 Judge Hudson reiterated that he enjoys presiding over cases in Richmond and interacting with counsel during cases. He encouraged lawyers with questions to reach out to chambers.

**The Honorable Robert E. Payne**

***United States District Court for the Eastern District of Virginia***

Judge Payne praised the local Bar for its zealous advocacy, competence, professionalism, and collegiality.

 Similar to other Judges in the Richmond Division of the Eastern District of Virginia, Judge Payne has observed a decrease in trials. According to Judge Payne, trials have been few and far between, especially in civil cases. Some of the trials that have taken place recently in the Richmond Division originated in the Norfolk or Newport News Divisions.

 Judge Payne observed that much of the civil docket in the Richmond Division consists of cases involving consumer protection, intellectual property/trade secrets, civil rights, employment, and contract disputes. Judge Payne noted that amount of patent litigation the Division has died down from past years.

 Judge Payne is scheduling roughly four-to-eight initial pretrial conferences in civil cases each month. Attorneys who appear for an initial pretrial conference should be well prepared and able to discuss the facts and legal issues presented. Judge Payne uses the initial pretrial conference as an opportunity learn about the case, not simply to discuss scheduling, and therefore expects attorneys to know the case. Local counsel should impress this expectation upon out-of-town lead counsel who appear for such conferences.

Judge Payne explained that the local Bar does a good job of resolving most discovery disputes without Court intervention. Judge Payne recommends that parties memorialize discovery agreements in the form of Consent Orders to avoid misunderstandings. Judge Payne addresses most discovery disputes by conference call. Issues of attorney-client privilege may require motions practice.

If requested by the parties, Judge Payne will grant a hearing on a contested motion in most instances. Judge Payne is seeing fewer motions to dismiss, but motions for summary judgment are filed in most civil cases.

 Judge Payne noted that the Magistrate Judges in the Division continue to have a high degree of success resolving cases during settlement conferences.