

In its continued effort to promote the administration of justice in the Richmond area and to facilitate cooperation between the bench and the bar, the Bar's Administration of Justice Committee recently concluded its annual interviews with the Honorable Judges of the Courts of the County of Hanover and County of Chesterfield. As in years past, the Judges were gracious with their time and spoke with candor to Committee members regarding the Court's work and the performance of the bar in their courtrooms.

The Honorable J. Overton Harris, Chief Judge of the Hanover County
Circuit Court

Still a "new" courthouse to many, Judge Overton Harris says that the current Hanover courthouse offers a great deal of technological advances not found in many other courthouses in the area. Judge Harris encourages all attorneys to take full advantage of the Court's technology when presenting cases. For example, the courtrooms are equipped to work with many types of computers, depending on the age of the equipment. So, there is a high likelihood you can hook up your laptop to the Court's video equipment allowing you to present your evidence using video screens. The Court encourages using video technology rather than passing around a paper documents or single photographs which takes up additional hearing time. Depending on the situation, viewing of evidence can be limited to certain screens, so that, for example, only the Judge and the lawyers can review the evidence before it is presented to the jury. Judge Harris suggests that any attorney who wishes to take advantage of this courtroom technology contact Stuart Oskins in the Clerk's Office. Please contact Mr. Oskins sufficiently in advance of trial so he can assist in getting you ready to present your evidence electronically.

If the lawyers agree, the Court also has the capacity to allow video testimony. A witness need not even be in Virginia (or the United States, for that matter) and can still testify. Again, the Court emphasizes this can be done only in cases where the lawyers agree to the use video testimony. If they agree, the Hanover Circuit Court's technology can accommodate the presentation of video evidence

The Hanover Circuit Court moves its docket along pretty efficiently so that litigants need not wait a very long time for trial. Judge Harris, however, asked if anyone has experienced any unreasonable delays in getting their case set for trial to please let him know as the Court is always open to suggestions on how to improve.

To assist with advancing its docket in a timely matter, the Court adheres to strict time limits. When setting a case for trial or a hearing on a motion, consider the time necessary to be heard. If you need 30 minutes or if you need three hours, ask for that amount of time on the Court's docket because at the end of the allotted time the Court will conclude the hearing. If the matter is not yet resolved and additional time is needed, the Court may continue the matter to a new date to conclude the hearing depending on the situation. Further, do not set a hearing on one motion for a certain amount of time and then set another motion on that same date expecting it will be heard. The Court may not have sufficient time to hear the additional motion and will conclude the hearing without the second motion being heard that day. The Court will set another hearing at a later date to hear the subsequent motion or motions.

For the last year, the Hanover Circuit Court has been piloting a Drug Court program. Currently, there are seven participants but Judge Harris hopes more can participate over time. The Drug Court pilot program is designed to assist high-risk, repeat offenders.

In drafting letter opinions, Judge Harris and Judge Kelly each aim for a two-week turnaround and if the opinion letter will be delayed beyond two weeks the Court will contact the lawyers to let them know the status of the opinion

The Court is very impressed with the degree of civility and cordiality of the local bar. Lawyers, however, need to make sure they schedule their dockets so as not to get overwhelmed with court hearings and experiencing delays in getting to court. The Court understands a lawyer's need to practice in different jurisdictions, but Judge Harris observed, "If you juggle long enough, you'll drop one of the balls." Judge Harris has noticed more lawyers are trying to manage hectic schedules, including more experienced lawyers, and suggests lawyers only schedule themselves to be in one court at a time.

The Honorable Robert E. Reibach, Chief Judge of the Hanover County
General District Court

Chief Judge Robert E. Reibach finds that most attorneys in his Court do a fantastic job. In speaking with the Judge, he offered the following advice:

Judge Reibach reminds all lawyers to come to Court prepared. While a trial or hearing may be routine for the lawyers, he says it is the most important day of a client's life. To be prepared, Judge Reibach recommends reviewing the applicable statute or case and making a checklist of all the required elements, even on issues that the lawyer has handled many times in the past. He says too often he sees experienced lawyers glossing over one or more of the required elements in a statute or case, which affects the outcome of the case. In criminal matters, Judge Reibach says defense counsel must speak to the prosecutor before trial.

Judge Reibach also encourages lawyers new to the district to not be afraid or embarrassed to ask questions. He recommends "knowing your judges" and asking questions from experienced lawyers about the judges in the 15th District before lawyers appear in front of them.

Judge Reibach says that lawyers must be courteous of the Court's time. If a lawyer is going to be late, the lawyer should always call the Clerk's Office to let the Court know how late the lawyer is going to be and see if the Court can hold the lawyer's case.

Finally, Judge Reibach says he finds that the members of the public generally have confidence in Virginia's judicial system and that the system works.

The Honorable Shannon O. Hoehl, Chief Judge, and the Honorable Frank G. Uvanni, Judge, of
the Hanover County Juvenile and Domestic Relations
District Court

Judge Hoehl reported how fortunate the Court was to have such a good group of attorneys who practice in their Court.

Judge Uvanni said, "The bar is doing great."

If any improvement could be made, attorneys need to keep in mind to contact the Court when running late. Recently, attorneys seem to be forgetting to do this. The Court understands having conflicts in other courts and attorneys need to take cases where they can. The Court reminds attorneys to keep the Court informed when running late or being delayed in another jurisdiction. It is expected that running late will be the exception to the rule and not a common practice. When you set a case for a certain time, it is expected that you will be there at that time.

If an attorney is the designated duty attorney for the day, the Court asks that you not schedule yourself in another court on the same day. Often attorneys assume they will have no cases assigned to them on their duty day based upon their review of that day's court docket. Believing they won't be assigned cases on their duty day, they schedule cases in other courts. It is never truly known, however, when an attorney will be needed, be it for an emergency hearing or other reason, so the Court asks duty attorneys to make sure they are available on their duty day.

Judge Hoehl and Judge Uvanni both observed it seemed like court filings were up. Both Judges reported their courts were very busy. Even so, the Hanover Juvenile Court normally tries to get a trial date set in as quickly as possible, normally in about three months on average for civil cases.

The Judges would like to remind attorneys that the Hanover Juvenile Court has a Drug Court for non-violent offenders. Cases are normally limited to those defendants who have a drug use problem, not cases involving distribution. A defendant's participation in the JDR Drug Court is up to the Commonwealth's Attorney.

Judge Hoehl commented that the newer attorneys who appear in her Court seem to be very well prepared.

The Court reminds attorneys to provide any Consent Orders to the Court ahead of the trial date. The Court is supportive of settlement efforts and understands the power of an impending hearing to assist with a last-minute settlement. It will allow short conversation in the courthouse hallway for settlement purposes, with time talking in the hallway taken from your time to try the case. It would, however, prefer to receive a sketch Consent Order well in advance of the trial date, which could free up the Court's docket and allow the Court to potentially reschedule your hearing time with another case.

If you anticipate requesting a drug or alcohol screen at your hearing, please contact the Court ahead of time so they can be prepared to perform the test before the hearing, in a timely fashion, and with the proper personnel in place. Further, the Court suggests the person being tested arrive early to the hearing and take the test upon arrival to the courthouse and before using the facilities at the courthouse. Doing so allows the hearing to continue uninterrupted without taking time away from your hearing.

The Court will order discovery in civil cases if requested but it does not have a form pre-trial order it normally uses.

Upon request, the Court will often waive a person's appearance in court for arraignments or pre-trial hearings if, for example, the person is out of state or is in some other way not available to attend court. It is unlikely that appearance will be waived for an adjudicatory hearing.

Also, the Court will set a case as well as appoint a guardian ad litem if requested by letter.

If your request is to set a hearing date, please include at least three available hearing dates in your letter. If it is a criminal case, please contact the Clerk's office before sending your letter so you can get the officer's available dates. Thursdays are criminal days in the Hanover Juvenile Court. The case won't actually be set until the initial hearing date. So, if sending in a letter, please don't send it in too far in advance of the initial hearing date. The Court would like to know your available dates are still available when setting the case and letters sent too far in advance may contain many dates which are no longer available on your calendar.

The Honorable Timothy J. Hauler, Chief Judge of the Chesterfield County Circuit Court

Judge Hauler is the Chief Judge for the Chesterfield Circuit Court which continues to administer a very active civil and criminal docket. Both the Civil and Criminal docket increased in 2017 from 2016.

Judge Hauler wanted to be sure that the bar is aware of a new scheduling procedure in the Chesterfield County Circuit Court. The Court has just created a “Duty Docket”. Duty Dockets are “intended to provide reserved/dedicated time slots to set matter expeditiously when needed” and each judge has one duty docket per week which is scheduled on a Tuesday, Wednesday, Thursday or Friday. The Master Calendar Supplement with the information on the Duty Dockets and how to schedule matters on them can be found on the Clerk’s website.

Judge Hauler wants to remind the bar that “piggy-backing” with respect to motions – i.e., scheduling a motion for a hearing, but then filing subsequent motions to be heard at the same time remains an issue. If subsequent motions are necessary, counsel should call the Court to inquire about additional hearing time. Counsel should also stay within their allotted hearing time, which will allow the Court to remain on schedule for other matters.

Additionally, Judge Hauler noted that with the criminal dockets, frequently attorneys are not in the Court when their case is called. He recognizes that often this cannot be avoided with an attorney’s schedule and the need to be in multiple courtrooms at the same time but asks that the members of the bar continue their efforts to try to be punctual at hearings.

Judge Hauler stated that he is very pleased with the caliber of attorneys that appear before the Court and indicated that he thinks it is important for the bar and the bench to continue to interact.

The Honorable Keith N. Hurley, Judge of the Chesterfield County General
District Court

Chief Judge Pamela O’Berry designated Judge Keith N. Hurley to address the Richmond Bar Association’s membership on behalf of the Court.

Judge Hurley commends the local bar that practices in the Chesterfield General District Court. He reports that those who appear in the district courts are generally well-prepared and respectful during trials. Judge Hurley had a few comments to help the local bar maintain that high standard while practicing in Chesterfield General District Court.

Judge Hurley first stressed that counsel should be familiar with the Court’s continuance policy, which is available online at the Court’s section of the Supreme Court of Virginia website. Should one or more parties wish to continue a civil matter less than three weeks before trial, the Court requires that a party move for a continuance and obtain a Court order continuing the trial. This will help manage the Courts’ trial times.

Judge Hurley also noted that attorneys who may have several matters before different Courts on the same day should check in with the courtroom clerk prior to the hearing or trial. The Court will try to accommodate scheduling conflicts of those who have multiple matters before the different Courts at the same time, but that accommodation depends upon double-booked attorneys keeping the Court informed.

As for good trial practice, Judge Hurley explained that trials before him often proceed much more smoothly when the attorneys have conferred prior to trial and they have narrowed the central issues that the Court must decide. Judge Hurley appreciates when the parties provide him a synopsis of the case prior to the opening of a trial. Similarly, Judge Hurley also encourages parties to provide the Court key exhibits, such as medical records in a personal injury case, before trial so

that the Court has adequate context of the issues in dispute before going into trial. The Court aims to be user-friendly, and it encourages parties' efforts to streamline litigation.

Finally, Judge Hurley discussed the Court's system for court-appointed criminal defense work. The Court maintains a well-qualified panel of private attorneys of varying backgrounds from which it will appoint counsel to represent indigent criminal defendants. If you are interested in serving on the panel you should write a letter to the Chief Judge. The Court receives many requests to serve on the panel.

The Honorable Jayne A. Pemberton, Chief Judge of the Chesterfield County Juvenile and Domestic Relations District Court

Judge Jayne A. Pemberton noted that the court currently has six judges. Judge M. Duncan Minton Jr. joined the court on March 1, 2017. The court has a set docket which provides that civil cases are heard on Mondays, Wednesdays and Fridays, and criminal cases are heard on Tuesdays and Thursdays. In Colonial Heights, court is conducted on Thursdays and Fridays. The court's goal is to have "one court, one family" for continuity for families and children before the court.

Judge Pemberton observes that Chesterfield is very fortunate to have good attorneys that are collegial and professional. With that in mind, she would like to remind the attorneys of the bar to introduce themselves to the court at the outset of any hearing or trial, as well as introducing their clients. This will assist the judges in being able to call the parties and counsel by name throughout the proceeding.

Judge Pemberton would like to remind the bar of the court's current continuance policy that was entered on August 10, 2017. In summary, in order to provide timely justice and not waste time or resources, the court discourages continuances and will evaluate requests on a case-by-case basis to determine whether the moving party has presented the requisite good cause for a continuance. Examples of good cause for a continuance include recent or sudden medical, mental health or other debilitating emergency (non-elective care) involving a party, counsel or material witness, failure to receive proper notice through no fault of the party or the party's counsel or facts or circumstances arising too late in the proceedings to be fully corrected and which, in the view of the court, would likely cause undue hardship or miscarriage of justice. Examples of what does not constitute good cause for a continuance include counsel or parties agreeing to a continuance without prior judicial approval, discovery not being completed, untimely hiring of counsel or substituting counsel, unavailability of a witness not subject to a subpoena, counsel being unprepared (e.g., as a result of a party and counsel not maintaining necessary contact to prepare), and a police officer or other witness being in training or on vacation unless the conflict has been noticed sufficiently in advance. Finally, the moving party has the responsibility to reschedule the case with the clerk's office.

Judge Pemberton would also like to stress the importance of being on time to court. If an attorney is running late for court, Judge Pemberton asks that the attorney please contact the clerk's office. Also, all of the judges would like attorneys to exchange as much information before their court appearance as possible, such as child support guidelines and income information in support matters. In addition, Judge Pemberton notes that there are times when perhaps certain issues may be resolved before the hearing if all parties are communicating. Any attempt to streamline cases and resolve certain issues before trial is appreciated in helping the court maintain an efficient docket.

Once again, Judge Pemberton stressed the bench's appreciation for all the hard work and dedication of the attorneys that appear in Chesterfield JDR Court, and she noted that her court is always striving to make the judicial process better.