

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 Counties of Hanover and Henrico**. 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.

Hon. J. Overton Harris, Chief Judge of the Hanover Circuit Court

Judge Harris reports that he continues to appreciate the civility and professionalism of those who practice before the Court. Judge Harris is pleased that lawyers are increasingly using the Court's technology system in presenting cases. He encourages the continued use of the available technology as he finds it to be an effective tool, especially for juries. The Court encourages parties to contact Stuart Oskins, the Court's technology administrator, at (804) 365-6864 in advance of trial to coordinate technology needs.

Judge Harris discussed the Supreme Court of Virginia's amendment of Rule 4:12 of the Rules of Civil Procedure, which provides for sanctions for failure to make discovery. The amended rule allows the Court to issue discovery sanctions without the prior entry of an order compelling discovery. Judge Harris notes that the Court has issued dispositive sanctions under revised Rule 4:12 and indicated that the Court would continue to do so when the facts warrant such sanctions.

Judge Harris advises that the Court schedules motions on a time available basis and that he and The Honorable Patricia Kelly hear cases every day the Court is open. Parties wishing to set motions in a civil case for a hearing may contact chambers at (804) 365-6454. Judge Harris requests that parties be as accurate as possible in estimating the time needed for motions hearings. The Court continues to strive to issue opinions within two-weeks of a hearing. The Court does not have a policy or practice of assigning one judge to a case after he or she hears a motion or otherwise becomes involved in the case, but the court will consider such a request in particularly complicated cases. The Court is happy to set a pretrial conference to address pretrial motions prior to trial if requested by the parties.

Judge Harris advises that multi-day jury trials are being set approximately 6 months out. Single day trials can be set much more quickly. Judge Harris reminds members of the bar that the Court has adopted local rules, which are available at <https://www.hanovercounty.gov/344/Local-Court-Rules>. He specifically mentioned Local Rule 4, the Court's Continuance Policy, which requires parties requesting a continuance to do so by motion and limits the circumstances under which a continuance will be granted within 30 days of trial.

With respect to the Supreme Court of Virginia's recently issued model policy allowing the public to bring cell phones and other technology into courthouses, Judge Harris notes that Hanover's policy has been, and remains, to allow all members of the public to bring their cellphones into the courthouse.

Finally, Judge Harris reports that Hanover's pilot drug court program has been very successful with a number of the initial participants graduating from the program. Judge Harris hopes to obtain funding to expand the program in the near future.

Hon. Hugh S. Campbell, Chief Judge of the Hanover General District Court

The Hanover General District Court now operates two courtrooms on a regular basis. Judge David B. Caddell, Jr. now presides over a civil docket every Monday and the third, fourth, and fifth Tuesdays of the month. On Tuesdays, he presides over a criminal docket in the morning and a civil docket in the afternoon. He also presides over a criminal and traffic docket on the first and third Fridays of the month. As a general reminder, state trooper cases are heard on Thursdays.

Regarding changes in the clerk's office, the office is now handling all aspects of restitution, including the acceptance and distribution of payments. This shift in practice notwithstanding, there continues to be a shortage in the clerk's office similar to those that other jurisdictions are facing. Additionally, the county administrator now makes the decision to close the courts during inclement weather. If the Hanover government is closed, all of the courts are also closed. Likewise, if the Hanover government is delayed, the courts are also delayed, and anything on the docket that was set to occur before the delay will take place once the courts open.

In civil cases, the court generally hears motions the same day as trial. If an attorney would like a hearing before the day of trial, and has a compelling reason for doing so, the attorney will need to contact the clerk's office for date availability, confirm the date with all parties, and then send a notice of hearing to the court. Please file the motion in enough time for the court to review it in advance of the hearing. When drafting motions, the Court would like to remind attorneys to please provide code sections or case law to support your position. Lastly, all parties are asked to notify the court when a case is being continued on the docket. The court feels more comfortable in moving the date forward when it has correspondence from all parties confirming the new date.

The updated courtrooms in the new courthouse have sophisticated audio-visual capabilities. Each courtroom is equipped with monitors, a USB drive and CD drive. Attorneys can simply plug these devices into the courtroom equipment before a trial starts. There is no need to advise the court beforehand of the need to use this technology. The court is also hoping to conduct more video arraignments with this technology to save the county money by not having to transport defendants from other jurisdictions. Utilizing this technology helps make the administration of justice more efficient and conserves county resources.

Judge Campbell urges young lawyers not to steer away from difficult cases, but rather to deal with them head on. Clients will be more patient with the fact that young lawyers will make mistakes early in their practice and hopefully learn from them. As part of the process, young lawyers should seek out good mentors and take advantage of the opportunities put in front of them.

Hon. Shannon Hoelh and Hon. Frank Uvanni of the Hanover Juvenile & Domestic Relations
District Court

Judge Hoehl and Judge Uvanni each expressed how lucky they are to have such good lawyers appear in their Court. Each shared their thanks for the lawyers generally being so well prepared and considerate.

Attorneys who wish to be on the Hanover Juvenile and Domestic Relations District Court's court-appointed list must all be qualified to serve as a guardian ad litem ("GAL"). Attorneys are assigned a duty day and the Court does not know if criminal defendants will need

counsel or if a GAL will be appointed on any given day. Accordingly, the court-appointed attorneys must be qualified to take both kinds of cases. Attorneys whose offices are located in Hanover County are typically preferred by the Court, as attorneys are sometimes asked to appear in Court the same day as their appointment with little advance notice.

The Hanover Juvenile and Domestic Relations District Court's Drug Court has experienced some successes and is off to a good start. However, the Judges did express some lament when some participants return to using drugs without the supervision of the Drug Court, especially juveniles who may not be mature enough to fully understand and appreciate the importance of staying off drugs.

With the current opioid epidemic, drug testing in the 15th District has become more challenging because of a lack of funding and resources to perform the tests. Therefore, Judge Hoehl indicated she will not order drug tests at the beginning of the case. Instead, she will wait for the presentation of evidence before ordering a drug test in those cases where she believes a drug test could make a difference in how she may rule. Judge Hoehl indicated that in many cases it may be preferable to administer a drug test to establish a more complete case history, but the money and resources are just not available.

Judge Uvanni indicated that in certain contested cases and emergency hearings, a drug test may be necessary. Judge Hoehl indicated she will usually authorize a random drug test if a GAL requests one during a pretrial conference. However, if such a test is requested, both Judges prefer that all necessary parties arrive at the courthouse early so the test may be performed in advance of any hearing, which reduces the amount of time spent waiting.

The maximum time set for a hearing is three hours. However, the Court will set a longer hearing if the attorney presents compelling evidence to do so.

The Court's goal is to set cases not more than three months following the pretrial hearing for contested cases, to have the pretrial hearing within 30 days of filing, and to enter final orders rather than temporary ones.

Last year, the criminal docket was expanded so that criminal cases are heard not only on Thursdays but also on the 2nd and 4th Fridays of each month.

Hon. Richard S. Wallerstein, Jr., Chief Judge of the Henrico Circuit Court

According to Judge Wallerstein, the overall quality of lawyering he sees in Henrico County Circuit Court is very high, which makes being a Circuit Court judge a great job. While he has no complaints about the bar, Judge Wallerstein believes it is worth reminding lawyers of a few things that most already know.

Civil practice should be civil. Judge Wallerstein cautions attorneys not to engage in "gotcha" litigation, but prefers that attorneys treat opposing counsel the way they would want to be treated. As such, there is no excuse for sending an impolite or disrespectful email or letter. Attorneys should also be realistic when estimating how long a hearing or trial will take because the Court will rarely have the luxury of going over the allotted time. Accordingly, attorneys should avoid "piggy-backing" a new motion on a hearing set for another motion, unless an attorney is able to extend the hearing time to account for the additional motion. As a reminder, domestic case motions are heard on Mondays and non-domestic civil case motions are heard on Fridays.

Judge Wallerstein cautions all attorneys to comply with Rule 4:15(c) deadlines for filing briefs so the Court has time to understand the issues prior to the hearing. In addition, attorneys should provide a courtesy copy to the judge's chambers.

Attorneys should make a real effort to resolve matters before requesting relief from the Court. Judge Wallerstein encourages attorneys to talk to one another instead of sending an email threatening a motion if the other side does not meet an attorney's demand. Criminal defense attorneys should remember that the Court does not have available drug treatment programs for alternative sentencing, and the Court cannot create a drug treatment plan for defendants. In those cases where the appropriate sentence would involve a drug treatment program, defense counsel needs to come to court with a specific plan in place for the client's treatment.

The experienced lawyers in this bar, when asked, are generally willing to advise younger lawyers. This can be very helpful, particularly when an attorney is about to appear before a new judge or handle a new issue for the first time.

Judge Wallerstein encourages newer attorneys to sit in on hearings and trials handled by more experienced lawyers.

Multi-day cases are generally assigned to specific judges for hearings and trial. Once a judge hears a substantive motion in a case, that judge will usually handle the rest of the case, including trial.

Important people to know at the courthouse:

Donna Sandefur—Court Administrator/responsible for all criminal matters

Elsie Holmes—Administrative Assistant for civil cases

Tammy Damon—Administrative Assistant for domestic cases

Hon. B. Craig Dunkum, Chief Judge of the Henrico General District Court

Chief Judge Dunkum stated there have been four major changes in the court's procedure since last year's report. First, the court has implemented a system of rotating clerks. This system ensures that all clerks are trained in the courtroom to combat against turnover and to ensure the consistency of knowledge and overall efficiency of the office.

Second, the court now conducts two criminal dockets and three traffic dockets each day. The court has made efforts to increase the number of preliminary hearings that it handles to ensure that such hearings are completed within ninety days of arrest. However, the court will not continue a case just because a lab has not been returned from the Department of Forensic Science. In some cases, labs are taking seven to eight months to be filed, and there is other evidence that can be used to establish probable cause.

Third, the court has revamped its system for appointing attorneys so that court-appointed attorneys are assigned cases one day per week. These dates are assigned well in advance to ensure that attorneys will be on time and prepared to represent their respective clients in the Henrico courthouse.

Lastly, the court has implemented a new document policy for the civil division. The policy states that the court will no longer accept for filing any documents that are not required to be filed by statute or the Rules of the Supreme Court of Virginia. For example, in bodily injury cases, the court will accept medical records affidavits for filing, but will not file corresponding medical records prior to trial. This policy has been implemented because the Supreme Court of Virginia mandates that general district courts store all documents they receive; however, general

district courts do not have the resources or storage space to accommodate this mandate and, therefore, must limit filings to essential documents. A complete copy of the new policy can be obtained from the clerk's office.

Over the last year, the court has seen a decrease in prostitution cases, although DUI cases have remained about the same. The court is also working to streamline the protective order process. In civil dockets, if requested, the court can typically accommodate having a trial within sixty days of the return date. The court typically sets three to five trials per day with the understanding that not all trials will move forward.

In terms of general advice to the bar, Judge Dunkum reminds all attorneys to be prepared. Know your own evidence. Talk to one another before trial to determine the true issues in controversy and relay those issues to the court at the start of the trial. As always, be on time. Judge Dunkum urges attorneys to call the main clerk's office number for general inquiries and not to call supervisors directly. Most clerks can answer most questions.

Randall G. Johnson, Jr., Chief Judge of the Henrico Juvenile & Domestic Relations
District Court

The Court has converted one of its traditional criminal dockets to civil due to fewer juvenile delinquency petitions being filed. The new civil docket will handle preliminary hearings and motions. It is anticipated that this change will decrease the amount of time civil litigants have to wait before their initial hearing. While this is a relatively recent change, Judge Johnson believes it to be working.

The number of protective order filings continues to increase significantly. The Court is currently in the process of reviewing its dockets to accommodate the increase, while at the same time considering ideas to ensure that attorneys and litigants do not wait too long for their case to be called.

The Court has eliminated its truancy docket due to a decrease in truancy petitions. Truancy cases are now handled as part of the Court's criminal or social services docket. Similarly, the Court has eliminated its domestic violence docket. These cases will be heard on one of the regular criminal dockets. None of the changes to the Court's docketing procedures will have an adverse effect on its ability to handle criminal cases in a timely manner.

The Court would like attorneys and guardians ad litem to be knowledgeable of the many services available to their clients and to be prepared to recommend programs and services specific to their clients' needs. Several programs have received specific notoriety for their success, including the PEARLS ("Promoting Empowerments and Resiliency through Learning Strengths") program operated through funding provided by the Virginia Juvenile Community Crime Control Act (VJCCCA). Initiated by Judge Herman, the program serves female adolescents and addresses the underlying reasons for delinquent and unhealthy behavior. The Court is also pleased to note that it recently had its first graduation of its drug court docket. The Court encourages attorneys and guardians ad litem to take advantage of all programs offered.

The Court appreciates the hard work and diligence exhibited by an overwhelming majority of the attorneys who practice before the Court. On those occasions, however, when an attorney knows he/she will be late for a hearing or has cases set in multiple courtrooms at the same time, the Court expects the attorney to communicate that fact to the Court so arrangements can be made in consideration of the Court's docket and other attorneys' schedules. Judge Johnson encourages each attorney to carefully review their case prior to scheduling the case for

trial so the proper amount of time can be recommended for trial. This assists the court in managing its docket and is considerate to other litigants and attorneys who also have cases set on the same docket. Finally, the Court encourages early resolution and/or settlement of cases. If your case settles or you know it will be resolved without going to trial, you should notify the Court as soon as possible so the hearing date and time can be offered to other litigants.