

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 Administration of Justice Committee recently concluded its annual interviews with the **Honorable Judges for the U.S. Bankruptcy Court for the Eastern District of Virginia, Richmond Division** and **Honorable Judges for the Courts of the City of Richmond**. As in years past, the Judges were gracious with their time and spoke with candor to Committee members regarding new rules and forms, motions and the need for pro bono volunteers.

**The Honorable Kevin R. Huennekens and the Honorable Keith L. Phillips –
United States Bankruptcy Court**

Representatives of the Administration of Justice Committee of the Richmond Bar Associations met with U.S. Bankruptcy Judges Kevin R. Huennekens and Keith L. Phillips, together, on November 6, 2019. Both Judges are pleased with the genial and professional relationship between and among the bankruptcy practitioners.

Members of the bankruptcy bar are reminded that the U.S. District Court for the Eastern District of Virginia will soon require that all members of the bankruptcy bar also be admitted to the District Court. A formal announcement regarding this requirement is on the website (https://www.vaeb.uscourts.gov/wordpress/?page_id=7605) and the deadline to submit the affirmation or be admitted is September 1, 2020. With respect to the policies on electronics and security screenings, the Court confirmed that no changes are expected and that security will continue to remain a very high priority of the Courthouse.

In follow up to last year's report on the then proposed amendments to the Local Rules for the Eastern District resulting from the Fourth Circuit's decision in *No v. Gorman* as to the requirement that a hearing be conducted before the dismissal of a case, the Judges note the successful implementation of the rules, as well as an additional new rule which provides for a 7-day notice period on voluntary motions to dismiss became effective on November 22, 2019.

On the horizon for the Court is the promulgation of recommended new rules and forms occasioned by the enactment of amendments to the Bankruptcy Code, including the HAVEN Act and the Subchapter V, Small Business Reorganization Act. The Judges anticipate that the Judicial Conference will soon provide recommended new rules for consideration and while approval of any new final rules is pending, corresponding interim rules are expected to be adopted by the various courts by the end of this year. The Judges further note that the addition of Subchapter V amendments also anticipates a role for a trustee and the Office of the U.S. Trustee is seeking applications for same.

With respect to other developments in conjunction with the Office of the United States Trustee, the Judges reported that applications were opened for a new Assistant United States Trustee to replace Robert Van Arsdale, who will retire at the end of 2019. In addition, the Judges are pleased to welcome two new Chapter 7 panel trustees, Jennifer West and Bill Brocius and acknowledge the retirement from the Chapter 7 trustee panel of Bruce Matson, Harry Shaia, and Roy Terry.

The Judges note that bankruptcy filings have increased slightly recently and, without prognosticating on the economy, would reasonably anticipate the trend to continue. Related to which, the Judges expressed their pleasure with the success of the coordinated efforts of Central Virginia Legal Aid and the Bankruptcy Section to provide pro bono services to low and no income debtors, noting that pro se filings in the Richmond division are almost half the number of the Court's other divisions. Similarly, the Judges are pleased that the Credit Abuse Resistance Education program has been rejuvenated, and note that volunteers are sought to visit schools in connection with that initiative. The Judges encourage the members of the Bankruptcy Bar to remain engaged in the success of these efforts.

As CM/ECF NextGen is launched nationwide, the Judges noted that the Eastern District of Virginia is in one of the latest waves. Preliminary behind the scene work is currently scheduled to launch in 2020.

Lastly, the Judges invite suggestions to and from both the Local Rules Committee, localrules@vaeb.uscourts.gov and the Bench Bar Liaison Committee members. All suggestions are reviewed and given serious consideration and attention by the Court.

The members of the Committee thank the Judges for their time and candor and look forward to another year.

The Honorable Joi Jeter Taylor
Richmond Circuit Court

Judge Taylor continues to appreciate the civility and integrity of the local bar and emphasizes how fortunate the Richmond bar is to have such great members.

Judge Taylor encouraged member of the Richmond bar to be on the lookout for the Court's pro bono initiative that it is undertaking in conjunction with the Richmond Bar Foundation. This initiative will kick off in 2020 and will encourage practitioners to provide pro bono services in their dedicated practice areas, such as landlord-tenant and domestic relations.

Judge Taylor relayed several practical comments regarding civil matters in the Richmond Circuit Court. The Court noted that there has been an increase in the number of no-shows of potential jurors. Judge Taylor encourages the bar to contact the Court if attorneys believe they may need more jurors in voir dire, the trial involves issues that some potential jury members may consider sensitive, or if the matter has received unusual pre-trial publicity. This has been an issue particularly in criminal trials where the defendant has been charged with sexual assault. The Court is looking at different ways to increase the available jury pool so that there are ample jurors available for trials.

The Court requires that counsel file motions prior to setting them for hearings and that counsel provide accurate time estimates for motions hearings. In addition to these requirements, Judge Taylor requests when a brief in support or opposition to a motion is filed fewer than seven days before the hearing date that the filing counsel also provide a courtesy copy of the brief to the assigned judge in chambers.

Judge Taylor expressed concern over the upcoming Navy Hill project and its potential impact on parking. She noted that the lack of parking during construction will undoubtedly be disruptive to all who enter the courthouse unless it is properly addressed by all involved in the development project.

Finally, the Court stresses that it takes security seriously and continues its efforts to further enhance security at the courthouse.

The Honorable L. B. Cann III
Richmond General District Court

Judge Cann reports that the Richmond General District Courts are currently quite busy with an overall increased number of filings in 2019 in civil, criminal and traffic matters. Slightly counter to the trend, on the civil side, unlawful detainer filings are down by close to 10% compared to last year (although roughly 1,300 unlawful detainers continue to be filed on a monthly basis).

On the criminal side, Judge Cann wished to commend the Richmond Public Defenders' Office for doing a very good job of investigating and trying cases despite heavy caseloads. While the judges observe and value this contribution to the justice system on a daily basis, they fear that too few members of the bar and public at large fully appreciate the work of these public defenders.

On the civil side, 2019 ushered in two significant developments with landlord-tenant cases. First, the General Assembly revised the Virginia Residential Landlord Tenant Act. The judges have seen these revisions operate smoothly without much confusion from the bench or litigants. One issue that has arisen concerns claims for increased attorneys' fees when landlords amend an unlawful detainer on the return date to capture unpaid rent arising after the initial filing. Judge Cann expects to enter shortly a new standing order on attorneys' fees claims to reflect the Court's practice on such claims over the last several years. Second, the Court is now dealing with a new, voluntary eviction diversion program whereby qualifying tenants who face unlawful detainer actions for nonpayment of rent can, with the consent of their landlords, enter into a structured payment plan to avoid eviction. This voluntary "EDP" is still in its infancy but some landlords and tenants have already taken advantage of the program to resolve eviction disputes. The judges have observed that a noteworthy number of pro bono volunteers are assisting the EDP on an almost daily basis. This is due in no small part to efforts of Central Virginia Legal Aid, HOME, the Greater Richmond Bar Foundation and the private "Firms in Service" from law firms around the City.

Judge Cann also referenced a forthcoming initiative, undertaken at the behest of Chief Judge Lemons, in which Richmond state court judges will work to publicize the need for pro bono volunteers and expand the existing framework for connecting indigent civil litigants in the City to legal representation. This initiative would build on a growing body of volunteer attorneys already stepping in to represent otherwise unrepresented litigants. Relatedly, Judge Cann emphasized a need for pro bono volunteers to serve as guardian ad litem. This is a

relatively “low stress” service that often helps individuals with disabilities and service members get the help they need. Finally, there are plenty of opportunities for attorneys who want to help outside of the litigation context, such as uncontested divorces, will drafting, and medical bill disputes.

The judges are impressed with the general level of preparedness and professionalism of regular practitioners before the court and they encourage the bar to maintain this high standard. Judge Cann stressed the importance of good communication between attorneys themselves and with the court on a wide range of matters that affect the smooth functioning of a high volume court. He gave several examples. For civil attorneys, especially high volume filers, it is highly recommended that attorneys contact the court the day before or early on the morning of the return date to ensure that the papers are updated for final disposition with current information on damages and credits. For attorneys with only one or a small number of filings, pre-docket call check-in is also advisable. It enables the court, among other things, to call the attorney’s case early so that the attorney can avoid sitting idly through a lengthy docket call. Other examples of good communication include contacting the court if an attorney is going to be late or a case has been settled. Settlements will often free up scarce trial dates.

Judge Cann conveyed the general sentiment of his colleagues that they do not wish to be seen as unapproachable or unwilling to hear the concerns of the bar. The Court has an “open door” policy. If attorneys have concerns regarding the administration of justice, then the judges will meet with them. Insights from the bar have proven quite helpful in the past and continue to be welcome.

The Honorable L. B. Cann III
Richmond General District Court

Members of the Administration of Justice Committee had a delightful visit with Judge Campbell in late November 2019. Judge Campbell will finish his term as Chief Judge in July 2020 when Judge Marilyn C. Goss-Thornton will assume the responsibilities.

One of the Court’s highlights of the past year was welcoming Judge Brice E. Lambert in July 2019, making a total of five judges for the court. Judge Lambert’s presence has helped with caseloads and the court hopes has also helped to reduce delays for litigants. Judge Mary Langer has been a key player in the launch of the court’s P+A=SS (Parents + Attendance = School Success) docket. The first PASS docket was held in August 2019 at Martin Luther King Middle School instead of in the courthouse. The program was created to address allegations of parents failing to cooperate with schools to correct their child’s attendance problems. The alternative docket is intended to better address the obstacles to school attendance that parents face. Parents and service providers will be gathered at the alternative location to address/intervene in the underlying causes of school absences. Recognizing that chronic absenteeism increases the likelihood of negative outcomes for students, P+A=SS is held at the middle school to encourage parents to engage with the school to provide their child with the education he or she deserves. While it will be a Court proceeding, the setting is intended to message to the parents that resolving the problems will be a collaborative effort. Other agencies providing time and resources towards this endeavor include Richmond Public Schools: Behavioral Support, Health Services, School Social Work Services, School Climate/Safety Division, Richmond Behavioral Health Authority, McKinney-Vento Act workers, the Greater Richmond Trauma Informed Care Network, Richmond

Department of Social Services, University of Richmond Children's Defense Clinic, and the Richmond Sheriff's Office.

Judge Campbell noted that court remains conscious of security issues with the Richmond Sheriff's Office Deputies providing excellent service at the courthouse. The front entry has been updated to reflect the focus on security, and the court appreciates all attorneys complying with the new requirements for screening for all entrants. While the court does allow for attorneys to bring in their electronic devices, counsel are reminded that this is a privilege not extended to the general public. The court requests that if counsel has extensive work to complete on their phone, they utilize the areas outside the courtroom to complete such work and to display professional behavior as to the use of phones in the courtrooms.

Judge Campbell emphasized that the court continues to value and respect the members of the bar that practice in the court. He encourages new and younger attorneys to consider training as GALs or to join the court appointed counsel list. The court has noted some issues with timeliness of attorneys appearing. The court recognizes that many attorneys appear in multiple jurisdictions, but Judge Campbell noted that it is important for counsel to remember to be punctual and maintain appropriate courtroom decorum. The court has a high case load, and a failure to be available timely has an impact on not only an attorney's client, but also the court, opposing counsel, and the docket in general.

While some neighboring jurisdictions are beginning to participate in an Electronic Voucher Pay System, Richmond does not yet have a launch date for the process in its court. The court does anticipate having a new text notification system in place in early 2020 to notify and remind parties of upcoming hearing dates in Richmond. In addition, in 2020 in conjunction with the Virginia Supreme Court Chief Justice's Pro Bono initiative in the 13th District, the Richmond JDR Court will partner with the Circuit and General District Court to launch this initiative. Judge Campbell is working with the Chief Judges of those courts to involve the University of Richmond Law School, Central Virginia Legal Aid, and various practitioners in this project. The project will provide many opportunities for those not normally in court to represent those who could not otherwise afford representation. More to come on this project in the near future.