

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

On October 26, 2020, members of the Administration of Justice Committee of the Richmond Bar Association met with the Honorable Kevin R. Huennekens and the Honorable Keith L. Phillips of the U.S. Bankruptcy Court for the Eastern District of Virginia.

In response to the COVID-19 pandemic, the court implemented numerous standing orders and developed procedures that ensure the safe and efficient functioning of court operations while ensuring access to justice. The court strives to balance the public health concerns in minimizing in-person courtroom participation while also ensuring that litigants have their day in court. Court staff are well equipped to work from home, and both Judges are preparing to begin conducting court hearings via Zoom. The Judges commend the bar for quickly adapting to the technological and operational changes. They noted that, by all accounts, they have the best bar in the country.

Consumer bankruptcy case filings decreased significantly at the beginning of the COVID-19 pandemic. Government protection of individuals from certain creditor collection actions may reduce the urgency often associated with consumer filings. Additionally, the funds provided through the government stimulus package are likely to contribute to more people remaining solvent despite the economic downturn. A leading indicator for consumer case filings is the unemployment rate, which continues to remain high. The Judges noted that there has been a slight increase in consumer case filings recently. They expect a tsunami of consumer case filings, unless Congress acts quickly to extend protections and stimulus funding. The Judges emphasized that when the deluge does come, the court is prepared to manage the case load and provide relief to those in need.

Business bankruptcy case filings have increased this year. Several Chapter 11 mega cases have been filed in the Eastern District of Virginia. The Judges expect that big retail cases may be the next to come.

The Judges applaud the efforts of the Richmond bar and the Central Virginia Legal Aid Society in continuing to provide pro bono services to low and no income debtors. The Judges noted that pro se filings in the Richmond division continue to remain lower than that of the Court's other divisions.

Despite the shift from in-person hearings to virtual hearings, the rules of professional conduct still apply. Counsel should continue to exhibit proper courtroom decorum and dress appropriately for court appearances.

Members of the bar are encouraged to check the division and district court websites for the latest developments and changes in procedures related to the COVID-19 pandemic. The Judges and IT staff are working diligently on improving the court website.

The Judges invite suggestions for improvements to court operations. Comments can be given to the RBA Bankruptcy Section chair, Alex Burnett.

The members of the Committee thank the Judges for their time and candor.

The Honorable W. Reilly Marchant
Richmond Circuit Court

Judge Marchant appreciates the civility and professionalism of the local bar. At the time of the interview, Richmond Circuit Court had returned to having criminal jury trials since all jury trials were suspended due to COVID-19. Richmond Circuit Court had resumed with criminal jury trials only in order to address speedy trial and other due process concerns.

Richmond Circuit Court planned on resuming civil jury trials in January 2021. Priority will be given to those matters that have been on the docket the longest and have experienced the most delays.

Judge Marchant said that logistical considerations with keeping 6-feet of distance between court staff, attorneys, the parties, and jurors have forced the Court to utilize up to three courtrooms for criminal jury trials from jury selection through deliberations. One courtroom has been used as the main courtroom and the other two courtrooms have been used as jury panel rooms. Jurors have been seated in what has historically been the gallery. Once impaneled, the jury has remained in the main courtroom through deliberations. When matters are heard outside the presence of the jury, one of the additional courtrooms has been utilized. During deliberations, the main courtroom is vacated with the exception of the jurors.

Judge Marchant said that only two criminal trials had gone forward since resuming criminal jury trials because the parties were able to settle with either a plea agreement or other mutually agreeable resolution. Having large enough jury pools has been a concern, but thankfully has not caused a delay as of the interview. Judge Marchant 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.

Judge Marchant believes that jury trials have taken longer and will continue to take longer with the new guidelines in place. What would have been a one-day jury trial is now taking about a day-and-a-half. As a result, the jury and litigants have been required to arrive earlier than they were before COVID-19.

The Honorable David M. Hicks
Richmond General District Court

Judge Hicks reports that Richmond General District Courts are quite busy with criminal, traffic, and civil matters after navigating COVID-19 and addressing a backlog of cases.

Judge Hicks wishes to commend the cooperation and resiliency of all stakeholders involved for their response to COVID-19 in the court system. The City of Richmond, sheriff's office personnel, commonwealth attorneys, public defenders, bailiffs, clerks, and the local bar have pulled together to keep the wheels of justice turning in Richmond with necessary adjustments and compromises. Their efforts are appreciated, especially after the clerk's office closed for several weeks and new procedures were implemented to enforce social distancing and maintain safety at the courthouses and in the courtrooms.

On the criminal side, the Court has made adjustments to keep the docket moving. Many preliminary hearings are conducted by video now. If plea agreements are reached in advance, the parties may submit paperwork and waive appearances. The Court commends prosecutors and defense counsel for working together on these issues and is impressed by the efforts of all counsel to communicate with their clients during a time when face-to-face meetings are very limited. These efforts have helped the Court address the backlog of criminal cases, which by now has mostly diminished. The Court appreciates the pragmatic and collaborative approach exhibited by all stakeholders, especially as extensions to the judicial emergency declarations continue and unanswered questions linger about thorny speedy trial issues.

On the traffic side, the Court had continued all traffic-related matters for months except for felonies, DUIs, and hit and runs. The full traffic docket resumed again in September and the Court is nearly caught up in working through the backlog of traffic cases.

On the civil side, unlawful detainers have proved challenging due to the 2019 changes to landlord-tenant law in Virginia, the implementation of new eviction diversion programs, and the eviction-related orders issued by state and federal governments. Thus, bar members practicing in this area of the law are encouraged to work with all parties and the Court to reach speedy and fair resolutions for these cases. Judge Hicks emphasized that the Court's goal in these cases is to honor the rules of contract but also evaluate and address the equities of each eviction case in light of the ongoing pandemic. This goal is consistent with the Court's mission as a court of law and equity.

In sum, the year has been a trying one for Richmond General District Courts as the pandemic has forced all major stakeholders to refocus on the fundamentals of proper legal representation and the administration of justice. The stakeholders, however, have risen to the occasion in a spirit of resiliency and cooperation that is encouraging. The Court has been impressed with the general level of preparedness and professionalism of regular practitioners and encourages the bar to maintain this high standard.

The Honorable Marilynn C. Goss
Richmond Juvenile & Domestic Relations District Court

On December 1, 2020, a member of the Administration of Justice Committee of the Richmond Bar Association had a wonderful meeting with the Honorable Marilynn C. Goss. Judge Goss assumed the role of Chief Judge on July 1, 2020. She is grateful for the leadership of Judge Richard Campbell in navigating the court through the onset of the COVID-19 pandemic, and she is thankful to work with such collaborative colleagues. Judge Goss is also very appreciative of the way in which the bar has cooperated with the court as it continues to make adjustments in response to the COVID-19 pandemic.

The most significant recent changes at the courthouse have been the court's adoption and implementation of a number of new protocols aimed at ensuring the safety of all those who enter the court building during the pandemic. At the onset of the pandemic, the court had a reduced docket, but regular dockets resumed on June 8, 2020. Masks or face coverings are now required in the courthouse. Everyone who enters the building will be asked health screening questions and have their temperature scanned. Entry to the court building will not be allowed for those who are currently diagnosed with COVID or awaiting COVID test results; have a temperature over 100 degrees or are visibly ill. The clerk's office is open to the public from 8:00 a.m. to 4:00 p.m., and appointments are required for the Court Service Unit.

Judge Goss notes that the court strives to limit the number of persons in the courtrooms by allowing entrance to only the parties and witnesses. Attorneys are asked to submit the names of anticipated witnesses to the Clerk of the Court no later than 24 hours prior to trial. Witnesses arriving at the courthouse who have not been previously identified to the court will be asked to wait in the lobby of the Court Service Unit until their names are properly submitted to the clerk on duty. The lobby and courtrooms have been equipped with signage, designating where persons may be seated to ensure compliance with proper social distancing.

During the pandemic, the court has also implemented a liberal continuance policy. Judge Goss encourages those who are unable to attend court due to health concerns or other reasons; or those whose appearance may be delayed, to call the clerk's office to inform the court of the circumstances. The court continues to monitor the trends and statistics relating to the COVID-19 pandemic and will make additional procedural changes should it become necessary.

The Administration of Justice Committee members thank the Judge for her time and candor.