

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 November 3, 2021, 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. Since the implementation of such protocols, the Court notes that, on the whole, parties have responded well to the COVID-19 procedures. However, parties should continue to consider best practices for attending hearings via remote video, including timely appearances, the environment in which parties are appearing and similar matters of professionalism. In addition, counsel are reminded that pursuant to the Court's standing order, requests to appear via Zoom should be received no later than two days in advance of the scheduled hearing, except in very limited circumstances. In addition, attorneys should ensure that their clients are familiar with the requirements to appear via Zoom and advise them regarding best practices for the use of the same. The Court continues to have internal discussions regarding the reopening of the Court and resumption of in-person hearings, which discussions necessitate coordination with the United States District Court. Such discussions currently include the potential for the continued use of Zoom for remote appearances when appropriate, with an expectation that evidentiary matters will occur in-person. No final determinations have been made at this time and all procedures are subject to change.

Consumer bankruptcy case filings decreased significantly at the beginning of the COVID-19 pandemic and continue to remain at a relatively low level. The Court notes that the number of Subchapter 5 filings have been less than anticipated and attorneys are encouraged to consider the applicability of such provisions when filing cases, along with the ability to jointly administer cases under Subchapter 5.

The Court also wishes to remind the bar that changes are coming to both CM/ECF with the implementation of NextGen and revisions to the webpage for the Court. This webpage will be very similar to that for the United States Bankruptcy Court for the Western District of Wisconsin. Counsel should have recently received correspondence on both of these items and should familiarize themselves with the changes. The conversion to NextGen is anticipated to occur in March. Parties will need to create new registration information with a new password and additional authentication procedures. There will also be additional requirements for those attorneys serving as panel Trustees.

The Judges applaud the ability of the bar to adapt to the disruptions and changes and procedures. As the Court continues to evaluate the reopening of the Courts, the Judges appreciate the patience of the bar.

The Judges invite suggestions for improvements to court operations. Comments can be given to the RBA Bankruptcy Section chair, Peter J. Barrett (peter.barrett@kutakrock.com).

The Honorable W. Reilly Marchant
Richmond Circuit Court

Judge Marchant appreciates the civility and professionalism of the local bar – especially during the past year with the Court’s COVID-19 protocols. Judge Marchant had high praise for the bar, court staff, the Richmond City Sheriff’s office, the Clerk’s office, and the public for the smooth resumption of criminal jury trials in October 2020 and civil jury trials in January 2021. The Court tried approximately 75 criminal and civil jury trials from the resumption of jury trials until late March 2021. The Court utilized three to four courtrooms per jury trial with jury selection spaced across 2 courtrooms with video technology. As a result, the Court was limited to trying two to three jury trials a day – with priority given to criminal cases. Of note, Richmond reported an astounding 65 to 70 percent attendance of potential jurors. Judge Marchant is proud of Richmond’s residents for continuing to do their civic duty during the pandemic. Judge Marchant also reported no mistrials due to COVID-19 related issues since jury trials resumed over a year ago.

As of the date of the interview, the Richmond Circuit Court is “back to normal” in terms of jury trials. Judge Marchant reported that counsel can currently schedule jury trials approximately six months out. The Court though has continued to schedule trials 2-3 jury trials on the same day with priority given to criminal trials and the earliest filed civil case. Each jury trial is generally limited to one courtroom, whereas last winter each jury trial would take three to four courtrooms. The Court requires all unvaccinated persons to wear a face mask. A face mask is optional for those who are vaccinated. Social distancing is encouraged and remains a goal for the Court despite it no longer being mandated. Judge Marchant said that one change that arose in the initial resumption of jury trials is still in effect – the Court is scheduling pre-trial conferences for all jury trials.

Outside the courtroom, Judge Marchant noted that the Court is in discussion with the City of Richmond over the potential location of a new courthouse. The City has proposed a new courthouse off of Oliver Hill Way. The Circuit Court judges oppose the City’s proposed location. They would like to see a new courthouse built in the City center, close to its current location. The discussions regarding the location of a possible new courthouse are ongoing.

The Honorable David M. Hicks
Richmond General District Court

Judge Hicks reports that the Richmond General District Court is operating mostly at pre-COVID levels. The Court has diligently worked through and removed the backlog of cases from

the shutdowns in 2020. Judge Hicks praises the bar for its flexibility as the judges and court staff continue to navigate the Court's dockets while being mindful of the ongoing pandemic. The Bar's flexibility and preparedness have aided the Court's effort to return to a semblance of normalcy in its day-to-day operations.

Judge Hicks reports that the Court is in a state of transition. First, the clerk's office has experienced structural changes. In 2016, the Court operated with four Clerks of Court. Now, the Court's civil, traffic, and criminal divisions are overseen by one Clerk of Court, Cecilia V. Garner. The most immediate impact of this change for practitioners is that all letters to the Court can be addressed to the same clerk. Judge Hicks anticipates in Spring 2022 practitioners will see further changes from the consolidation of the clerks' offices as the Court's scheduling will shift to allow judges to handle civil and criminal dockets on the same day.

The second transition relates to judge vacancies. The Court has seen three of its jurists—Judges Cheek, McClenney, and Cardwell—elevated to the Richmond Circuit Court. Judge Cardwell's position remains vacant but is expected to be filled in the next General Assembly session. As a result, practitioners can expect a substitute judge presiding in one of the six courtrooms until the vacancy is filled. The Court appreciates the bar's patience and flexibility during these transitions.

Third, Judge Hicks notes a trend in the criminal and traffic dockets. The Court has seen a decrease in the number of criminal and traffic matters. The decrease may be attributed to the approximate 20 percent vacancy rate in the Richmond Police Department, resulting in fewer matters being filed in the Court.

On the civil docket, the Court has not seen a noticeable increase in the number of filings with the recent jurisdictional increase from \$25,000 to \$50,000. The Court strives to set a contested civil case for trial approximately three to four months from filing. Regarding eviction proceedings, surprisingly the Court has not experienced a significant increase in unlawful detainer cases after the eviction moratoriums expired. In sum, the civil dockets are operating at a level seen before the pandemic.

On the criminal side, Judge Hicks urges attorneys practicing in traffic court to arrive early, or at least on time, for hearings. The Court will generally call the matters of represented parties first so it is important for practitioners to arrive on-time so counsel and their clients may have their matters heard promptly. The Court is not holding as many video proceedings for preliminary hearings as it did during the height of the pandemic. The Court has, however, observed that lawyers on both sides are reaching agreements before hearings to narrow the issues to address, which the Court encourages as a best practice.

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 November 15, 2021, a member of the Administration of Justice Committee of the Richmond Bar Association had a wonderful meeting with the Honorable Marilyn C. Goss who serves as the Chief Judge for the Juvenile and Domestic Relations District Court for the City of Richmond.

In response to the COVID-19 pandemic, the court adopted and implemented a number of protocols aimed at ensuring the safety of all those who enter the court building during the pandemic. A mask or face covering is required for every person who enters the courthouse regardless of the individual's vaccination status. 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 prior to trial. 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 Electronic Voucher Pay System has been implemented and provides counsel with the ability to submit vouchers electronically for review by the court. Judge Goss encourages attorneys to be prudent in requests for additional waivers, such as limiting requests to instances in which there are novel or exceptional issues or an extraordinary number of court appearances. Attorneys should also be aware that in an instance where an additional waiver request is denied and the attorney believes that there is a valid reason for such request, the attorney can ask the court to reconsider the additional waiver request.

Judge Goss wishes to remind the bar that when an appearance is scheduled for the purpose of allowing a litigant to provide the name of an attorney, the attorney does not need to attend the first appearance date scheduled. In such instances, the attorney can send a letter by the litigant or fax a letter to the clerk of the court stating the attorney's available dates. In the event that the case is assigned to a specific judge, the attorney should verify the dates available for the case to be heard by the assigned judge and provide all of the dates that the attorney is available for the following three months.

Judge Goss applauds the bar's ability to adapt to the changes in procedures and protocols related to the COVID-19 pandemic. She is very appreciative of the patience and professionalism that bar members have demonstrated during these unprecedented times. Judge Goss is also pleased with the courteous manner in which bar members communicate with clerks, deputies, and other court personnel.

The court welcomes suggestions for improvements to court operations. Comments can be directed to Judge Goss at mgoss@vacourts.gov.