

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 Counties of Hanover and Henrico**. As in years past, the Judges were gracious with their time and spoke with candor to Committee members regarding technology, dockets, communication and preparation.

The Honorable J. Overton Harris
Hanover Circuit Court

Judge Harris continues to appreciate the civility and professionalism of those who practice before the Court. Judge Harris encourages all practitioners to review the local rules, especially Local Rule 4. Continuances, even those agreed to by counsel, are rarely given when trial starts within 30 days or less. Judge Harris also warned counsel to schedule the appropriate amount of time for hearings and other matters. Judge Harris said that the Court fills its schedule and follows it closely. For example, if the litigants schedule a two-hour hearing for a thirty-minute time slot, the Court will likely have to continue the hearing to another date after the allotted time has expired. Also, Judge Harris requests that if there are additional matters to be heard that counsel get court approval before adding them.

Judge Harris stated that Hanover Circuit Courts dockets are full and back to “normal” after the initial suspension due to COVID-19. He does not believe there is a big backlog of cases. Regarding jury trials, Judge Harris said there have been more criminal jury trials lately since the passing of new legislation. Courthouse attendees are being screened prior to admittance/entry for COVID-19 symptoms and exposures. The Court is taking more recesses during jury trials for cleaning and disinfection protocols. Judge Harris advised there has not been an issue with citizens not showing up for jury duty.

Judge Harris also encourages counsel to use the pretrial conferences as allowed in Va. R. Sup. Ct. 1:19. Judge Harris believes this is an underutilized tool.

Hanover Circuit Court is back to basically pre-COVID-19 functioning with certain cleaning protocols and additional measures. Based on the interviewer’s experience and from speaking with others, the Hanover County clerk’s office is one of the most efficient and well-functioning of our local jurisdictions. This may be part of why they are not dealing with backlogs on the dockets from COVID-19 suspensions.

The Honorable Hugh S. Campbell and Hon. David B. Caddell
Hanover General District Court

Judges Caddell and Campbell continue to emphasize how much they appreciate the civility and professionalism of the attorneys practicing in Hanover General District Court. There are only a few items they believe would increase the efficiency of the court.

When dealing with creditors’ cases it is suggested that counsel not file a dismissal order until the case is fully resolved. Lately, attorneys representing creditors have more frequently been filing motions and orders to dismiss creditors’ cases only to later file a motion to reopen for various reasons. While the court very much appreciates counsels’ efforts in removing long-standing cases

from the docket, the court prefers counsel wait until the matter is fully settled by way of an executed settlement agreement or the matter is otherwise fully resolved before seeking a dismissal.

Also, in civil cases generally where the parties have asked the court to defer entering judgment following a trial, the judges urge the respective attorneys to communicate with the court concerning final resolution of the matter. Often, following a ruling from the court at the conclusion of trial, the attorneys ask the court to withhold entering judgment to allow the parties time to resolve the matter without a final judgment being entered. The court is very willing to do that when both parties agree. The court then sets a date on the general docket and awaits a correspondence by letter or agreed order from the parties as to whether the judgment should be entered or the case be dismissed. The court has noticed that it is becoming more common that no communication has been provided to the court as to what final order the parties wish the court to enter on the status date. The court then generally enters the judgment as it was determined at trial. The court just would like to remind the attorneys that it's very important that they communicate with the court as to whether the parties have reached an agreement calling for a dismissal or if the court should enter judgment.

As to pre-trial motions, the judges ask that the movant be sure to contact the clerk and opposing counsel to coordinate a date and time for the motion to be heard and follow that up with a notice of hearing attached to the motion. Any significant pre-trial motions should be heard before the date of trial.

The judges would like to thank the bar for their continued patience and consideration as we all put our best foot forward in making court dockets run as efficiently and timely as possible in the midst of the pandemic.

The Honorable Shannon O. Hoehl
Hanover Juvenile & Domestic Relations District Court

Judge Hoehl expressed that she has always been happy with the bar and found its attorneys to be cordial to each other and polite to the Court. In addition to the cordiality, Judge Hoehl shared her thanks for the lawyers generally being so well prepared and considerate. There is one area that attorneys can work on when appearing before Judge Hoehl and in Hanover Juvenile & Domestic Relations Court, which is attorneys being on time. The Court's docket generally runs on time, but recently there has been a string of tardiness. The Court does not like having to call attorneys to ask where they are. Instead, attorneys should proactively call the Clerk's Office if running late. Lastly, another point for attorneys is do not assume a case is continued because of an agreement between counsel. A case is not continued until an Order is entered.

With respect to COVID-19, much like last year, the Hanover Juvenile and Domestic Relations court has been fortunate in that COVID-19 has not impacted its docket and the Court is, for all intents and purposes, operating business as usual. The courtroom is large enough for everyone to maintain social distancing and, because cases are set by the hour, the parties are able to limit or eliminate contact with others.

During hearings and in the Hanover Courthouse, masks are not required for individuals who are vaccinated. While a witness, or others, may continue wearing masks, Judge Hoehl remarked everyone is better able to evaluate the witness with their mask removed.

The Court's goal is to set cases not more than three or four months following the pretrial hearing for contested cases of three hours, to have the pretrial hearing within 30 days of filing, and to enter final orders rather than temporary ones. If a party requests an emergency hearing and provides adequate support for that emergency hearing, then the Court will grant the request. If the Court denies the request for an emergency hearing, then a Guardian ad Litem (GAL) will be appointed. The GAL may then separately petition the Court for an emergency hearing, if the GAL understands that an emergency does exist.

Lastly, Judge Hoehl wishes to remind the bar of the opportunities available to serve as a GAL and court-appointed counsel. Attorneys who wish to serve as a GAL must also be on the Hanover Juvenile and Domestic Relations District Court's court-appointed list, as the Court needs additional support for criminal defense. 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 attorney should expect to keep that day open or find a replacement attorney. Attorneys whose offices are located in Hanover County are typically preferred by the Court, both because attorneys are sometimes asked to appear in Court the same day as their appointment with little advance notice, and because a Hanover location is typically more convenient for client meetings. If you are interested in serving as a GAL and court-appoint counsel, please contact the Hanover Juvenile and Domestic Relations District Court's Clerk's Office.

Judge Hoehl offers an annual stakeholder meeting at which attorneys who serve as GAL, court-appointed counsel, and people from state agencies can offer meaningful input in the Court's operation. This meeting remains on hold, but Judge Hoehl is looking forward to scheduling a meeting in Spring 2022.

The Honorable L.A. Harris
Henrico Circuit Court

Judge Harris continues to appreciate the civility and professionalism of those who practice before the Court. Judge Harris said that the Court fills its schedule and does its best to keep the docket moving.

Judge Harris said that the Court is currently scheduling trial dates approximately one year from when the litigants contact the Court to schedule a trial date. Trials are being scheduled on a first-come-first-served basis. There has been an increase in the number of criminal jury trials since the law changed that allows judges, not juries, to determine sentences if a criminal defendant is found guilty.

Henrico County Circuit Court has five judges. To keep the docket moving and overcome the delays created by COVID and the increase in criminal jury trials, the Court currently schedules four civil jury trials and four criminal jury trials per day each Tuesday, Wednesday and Thursday. Given the number of civil matters that settle and criminal matters where there is a plea agreement, the Court has not had a problem with overscheduling. Trials are typically set on Tuesday, Wednesday and Thursday. Mondays are usually reserved for domestic matters and Fridays for motions hearings. When necessary, the Court will schedule jury trials on a Mondays or Fridays to keep the docket moving.

Given the overall increase in the number of trials being scheduled and the longer than usual wait for jury trials, Judge Harris encourages litigants to keep their trial dates and not request continuances unless absolutely necessary. When trials are continued, available trial dates are typically a year out from when they are continued.

Judge Harris credits the Henrico County administration for assisting and enabling the Court to schedule and conduct as many jury trials as it has during the pandemic. The Court has utilized large conference rooms in the Administration Building for jury deliberation rooms when the normal jury deliberation rooms were too small to maintain social distancing. Also, rather than sending juries out for lunch, the cafeteria has been preparing lunches for the juries, which has decreased delays.

Judge Harris said that the Henrico County Circuit Court has followed Henrico County's protocols for mask wearing. Masks are required to be worn by everyone unless specifically permitted by a judge in the courtroom. The Court will typically allow witnesses who are testifying to remove their masks when speaking. Similarly, most judges will permit attorneys to remove their masks when addressing the court, the jury or questioning witnesses. Permission is granted by the judges on a case by case basis, so litigants are encouraged to request the judge's permission before removing their masks.

Judge Harris encourages attorneys that plan on using technology in the courtroom to make sure that their technology works well in advance of trial. The Court encourages litigants to work with the Sheriff's office as well as the Court's IT department to work out any technical difficulties in advance so that trials are not delayed.

For motions in limine and other pretrial motions, Judge Harris encourages litigants to file such motions and schedule hearings well in advance of trial. This help keep trials moving and prevents unnecessary delays.

The Honorable John K. Honey, Jr.
Henrico General District Court

Judge Honey wishes to commend the local bar for its outstanding efforts, flexibility, civility, and resolve as the Henrico General District Court has continued to implement and evolve changes to operations and procedures during the COVID-19 pandemic. The judges, lawyers, clerks, other courthouse staff, Commonwealth's attorneys, and sheriff's office have worked together under the "Henrico Way" mantra to ensure the administration of justice continues during this unprecedented time.

The Court has COVID-19 protocols in effect for the courthouse given the recent Omicron variant's surge. Regardless of vaccination status, every visitor must wear a mask, have their temperature checked, and answer virus-related questions upon entry to the courthouse. If a party is denied entry to the courthouse after a temperature check and questioning, then the Court will continue that party's case. The Court is advising lawyers to wear a mask, to show up on time, and to avoid the courthouse if you are experiencing COVID-19 symptoms.

Judge Honey reports that the Court is quite busy with criminal, traffic, and civil matters. To maintain social distancing protocols, the Court has limited the amount of cases it hears per

courtroom and has staggered the dockets to spread out cases. The Court is only hearing about 50 cases for criminal and traffic matters and about 40 cases for civil matters per docket.

On the criminal side, video conferences have been implemented for arraignments, pleas, continuances, bond motions, and preliminary hearings if the defendants sign waivers agreeing to a virtual appearance. To keep its dockets moving efficiently, the Court is handling as many cases virtually as it can, provided that all parties agree. The Court encourages lawyers to advise their clients about the benefits of conducting criminal matters via video conference during the pandemic. The Court is no longer conducting trials virtually due to the logistical and technological challenges.

On the civil side, video conferences have also been implemented if all of the parties agree. The Court has not, however, received many requests for such virtual hearings. Unlawful detainer proceedings have increased over the past several months but the Court has also observed that the relatively new rent relief program appears to be working well, with many landlord receiving back rent payments and tenants avoiding evictions.

The Court remains committed to the process of creating a mental health docket. The Henrico Police Department already has a mental health unit that works closely with Henrico Mental Health. If all major stakeholders work together on this new mental health endeavor, the Court hopes it will better address mental health issues in the community by offering an alternative to incarceration. Such an endeavor does require a commitment from all stakeholders and Judge Honey has had productive conversations with state Senators and Delegates.

In sum, the year has been a trying one for the Henrico General District Court 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 Margaret W. Deglau
Henrico Juvenile & Domestic Relations District Court

Covid continued to affect the Court in a myriad of ways this year. Judge Deglau continues to laud the bar's flexibility and willingness to embrace uncertainty as the Court often saw week-to-week changes in safety protocols. Persistent stress about exposure to the virus left clerks, deputies, attorneys, and citizens mentally exhausted, emotionally drained, and often short tempered. The Judge is quick to point out that, overall, counsel has been outstanding in pivoting to virtual settlement conferences and she has been pleased to see many parents in the JDR Court working together who may not have done so in the past.

In addition to the ongoing health and safety challenges posed by Covid, the Court has dealt with severe staffing shortages. Throughout 2021, the Court lost nearly 80% of its clerks. Two retired clerks were brought back on as employees to help bridge the gap. While some positions have been filled, the Court is still making do with approximately 50% of its usual staffing needs. At the time of her interview, Judge Deglau noted that there were only 3 fully-trained courtroom clerks servicing 5 courtrooms. As a result, the Judge herself went without a clerk from time to time. Short staffing meant that it took longer to get judgments entered and complete orders.

Covid has the potential to impact nearly any aspect of a case. The Judge noted an increase in the length of case timelines due to a higher volume of continuances than usual. Time in Court is at a premium, so the Judge urges members of the bar who realize equests as early as possible to allow maximum opportunity for rescheduling the Court time previously allocated to the continued case. Judge Deglau reminds members of the bar that settlement conferences are an effective tool to limit the issues before the Court, even if the overall case itself cannot be resolved by settlement conference. Counsel will receive the amount of time in court that they request. Therefore, members of the bar should consider the complexity of their cases, including the number of witnesses they intend to call, in determining how much time to request.

Moving forward, the Court will likely continue to allow requests for remote hearings in many cases even after Covid restrictions are lifted. Although remote hearings are not always appropriate, such as in support matters where it is difficult to examine complex financial documents virtually, the Judge is mindful that remote hearings are especially useful for out-of-state participants with preliminary hearings and will therefore allow remote hearings when it makes sense to do so.

Judge Deglau commends the clerk's office on their hard work in maintaining an office of its size without a courtroom clerk for each judge. She asks the bar for support in making these indispensable employees feel valued. Examples of such support include advocating for the Supreme Court to increase clerk salaries and lobbying the county to give JDR clerks the same supplemental funding currently available to General District Court clerks. Finally, Judge Deglau asks that counsel and citizens alike let her know when a clerk goes above and beyond to be particularly helpful so that the Judge can make sure that clerk knows how much they are appreciated during this stressful time.